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Committee on Economic, Social and Cultural Rights

Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights

Sixth periodic reports of States parties due in 2016

Germany*, **

[Date received: 21 February 2017]

* The present document is being issued without formal editing.

** The annexes to the present report are available from the web page of the Committee.

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Part I

A. Introduction

1. The Federal Republic of Germany hereby submits to the Committee on Economic, Social and Cultural Rights (CESCR) its sixth report under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).*

(Recommendation No. 39)

2. This report reflects the revised reporting guidelines adopted in 2008. General information about the legal and constitutional system and the protection of human rights in Germany will therefore be submitted in a separate common core document.

(Recommendation No. 6)

3. The reporting period for the sixth report, from 2008 to 2015 (2016 in some cases), covers changes and measures introduced since the last report, and it refers explicitly to the Committee's concerns and recommendations. These are referenced in italics and brackets at the beginning of each section.

(Recommendation No. 38)

4. Key civil-society representatives and federal ministries with responsibility for important parts of the report have been involved in producing the report from a very early stage. An initial meeting was held in June 2016. In addition, a second consultation took place in August 2016 with representatives of the German Institute for Human Rights (GIHR), the social partners (the German Trade Union Confederation and the Confederation of German Employers' Associations), and Professor Riedel, a former expert member of the Committee.

5. Any costs are offset by corresponding savings within the estimates for the departmental budgets concerned. The fact that measures with financial implications are set out in the report does not prejudice current or future budget negotiations.

B. Application of the Covenant in German domestic law

(Recommendation No. 7)

1. Formal implementation of the Covenant, court decisions

6. Suitable initial and further training ensures that those involved in German court proceedings are made sufficiently aware of human rights, such as those enshrined by the Covenant.

7. In Germany, aspiring judges, public prosecutors and lawyers undergo the same standardised legal training. As part of this training, they not only take compulsory courses, which already cover key international influences on German law, but must also complete specialist courses, with modules on international law and, in particular, human rights.

8. Within the German legal profession, human rights issues are increasingly being raised and relevant further training is being taken up. One example is the "Legal profession for human rights and diversity" project run by the GIHR from 2012 to 2014. The project aimed to strengthen the legal profession in relation to the practical protection of human rights, raise awareness of discrimination and contribute to the development of diversity skills. The practical further training and information offered as part of the project included seminars for lawyers specialising in labour and social law.

* Additional information on certain subjects is contained in Annex 27, p. 68.

9. Under Rule 46 of the Joint Rules of Procedure of the Federal Ministries, all national laws are examined in accordance with systematic and legal scrutiny by the Federal Ministry of Justice and Consumer Protection (BMJV) before being passed. This examination also looks at their compatibility with international law, in particular the Universal Declaration of Human Rights of the United Nations and other UN international human rights instruments[1] and the European Convention on Human Rights. Consequently, any absence of direct invocation of the Covenant's provisions before German courts or in judgments does not allow any (negative) conclusion to be drawn as to the consideration given to the Covenant in the application of the law in Germany.

10. In addition, it is possible for parties to German court proceedings to expressly invoke international conventions before the court at any time. The court may also draw on these conventions directly in interpreting national law or closing any legal loopholes.

(Recommendation No. 8)

2. Powers and responsibilities of the GIHR

11. In 2015, the Act on the Legal Status and Tasks of the GIHR was adopted. The Act regulates the legal status and organisation of the Institute, which seeks to inform the public about the human rights situation in Germany and abroad, and to contribute to preventing human rights violations and to promoting and protecting human rights. In March 2016, the Institute's existing A status, which accords special rights in UN bodies, was once more confirmed.

12. The Federal Government takes the view, however, that the "other avenues of recourse" (recourse to the German courts; the possibility of applications to the European Court of Human Rights) it described in the previous report, and which were referred to by the Committee, represent sufficient protection from the infringement of economic, social and cultural rights by public authority. An expansion of the Institute's powers is therefore not regarded as necessary.

13. The Federal Government would point out that the GIHR now also delivers opinions on human rights issues in selected proceedings before national courts and international decision-making bodies, if a case pending before a court is of fundamental importance for human rights and the Institute is working on the subject. Economic, social and cultural rights play an equal part to that of civil or political rights in the Institute's work.

(Recommendation No. 36)

3. Ratification of the Optional Protocol

14. The possibility of international complaints procedures, as provided for by the Optional Protocol to the Covenant, is an important, tried-and-tested instrument, and one which can, in principle, enhance the legal position of the persons concerned and their own awareness of that position. The process of examining the possibility of ratification has been relaunched in the current electoral term. Given the Covenant's far-reaching implications, the process of examining its ratifiability is a complex task and is not yet complete.

C. Further recommendations by the Committee

(Recommendation No. 37)

1. Ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW)

15. The Federal Government continues to regard the signing and ratification of the 1990 ICRMW as inadvisable. The key reasons were set out back in 1990 in a declaration in the context of the Convention's adoption by the General Assembly, and they are still valid

[1] For footnotes, see Annex 28, p. 73

today. Fundamental human rights are already enshrined in the International Covenant on Civil and Political Rights and the ICESCR, which also apply to migrant workers within the territory of the States Parties. In addition, the Federal Government takes the view that the definition of migrant worker used in the Convention is insufficiently differentiated. It includes persons who are staying in Germany without authorisation and engaging in employment without authorisation. Their position is protected in a way which goes far beyond the undisputed requirement to respect their human rights in full.

Part II

16. Developments affecting the rights guaranteed by the Covenant.

A. General provisions of the Covenant

Regarding Article 1
Right of peoples to self-determination

17. Please refer to the information in the fifth report.

Regarding Article 2
Non-discrimination in the exercise of rights (para. 2)

(Recommendation No. 12)

1. Rights of persons with a migration background with regard to employment and education

1.1 Rights of persons with a migration background with regard to employment

18. The General Equal Treatment Act (GETA) of 2006 regulates entitlements and legal consequences in the case of discrimination, in relation to both working life and civil law. The Act aims to prevent or eliminate discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual identity (Section 1 of the GETA).

19. The protection applies in relation to self-employment and employment, applications, employment and working conditions, promotion, dismissal, vocational guidance, continuing vocational education and training, retraining, and access to professional associations and trade unions. The Act gives workers a comprehensive right to submit complaints if they experience discrimination and enshrines an entitlement to compensation if an employer breaches the Act.

20. The Federal Government has also introduced a large number of labour-market measures to combat discrimination. One core element is the nationwide "Integration through Qualification" programme. It promotes greater intercultural openness in the labour market. Discrimination is being reduced through a holistic approach and a wide range of measures, such as advice, training and comprehensive information services. The target groups are the employment service, businesses, municipal administrations, policy-makers and academia.

1.2 Rights of persons with a migration background with regard to education

1.2.1 Integration measures in schools

21. In 2012, with the aim of shaping integration policy in Germany in a more binding way in future, the Federation and the Länder (federal states) developed the previous National Integration Plan into a National Action Plan (NAP) on Integration, with concrete and verifiable targets. In the NAP, the Federation and Länder set common goals for the first time, such as:

- Enhancing individual support and recognising the potential of children, adolescents and young adults
- Improving the recognition of foreign qualifications
- Raising the proportion of migrants in the public service of the Federation and the Länder

22. Given the division of competences in the field of education, the Länder have a particularly important role to play. The Länder are setting priorities for the ongoing implementation, in particular, language education for children and young people, implementation of the strategy of the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder (KMK) to assist less able pupils, cooperation with parents of children with a migration background and organisations representing persons with a migration background, and greater intercultural openness in child day care centres and schools.

23. The significant rise in the number of school-age refugees poses a major challenge for the Länder, which are deploying considerable resources in response. This includes additional funding for more classroom space and the recruitment of teachers, social pedagogues and integration assistants. In view of the fact that young refugees are in some cases unaccompanied, frequently traumatised, and often have no experience of school or are illiterate, integrating them into schools requires special social-pedagogic and psychological support, and cooperation with all persons and institutions involved in supporting and providing basic services to refugees, which takes up significant human resources. In addition, the Länder are significantly expanding their teacher-training programmes and continuing education and training for teachers with regard to German as a second language.

24. Regarding further implementation measures by the Länder in the field of education, see Annex 3, p. 7ff.

25 In 2013, the Federation established "Language education and multilingualism" as a priority in the context of the Framework Programme for the Promotion of Empirical Educational Research. The Federation is funding research projects in this area over the period to 2017 with the aim of developing and making available actionable knowledge about multilingualism in child day care centres, primary schools and lower secondary schools.

1.2.2 Integration measures in vocational training

26. With the "Qualify and Connect — the education chain up to qualification" initiative, the Federation is also helping to improve the situation of young people in schools and vocational training. The aim is to avoid young people dropping out of school, prevent young people from becoming stuck in "holding patterns", achieve efficient transitions into the dual training system and, ultimately, to counter the risk of a skilled labour shortage due to demographic change. The initiative focuses on special needs schools and secondary general schools, where there are higher numbers of young people with a migration background.

27. KAUSA, a sub-programme of the training capacity programme JOBSTARTER, and the "Active for Vocational Training" initiative, are intended to win the support of entrepreneurs with a migration background for vocational training. The activities of KAUSA — the Coordinating Office for Vocational Training with Self-Employed Persons with a Migration Background — are being expanded in line with the agreements enshrined in the National Pact for Training and Young Skilled Workers. In future, the initiative will focus on both companies and young people with a migration background.

1.2.3 Anti-discrimination measures in higher education

28. Higher education institutions express their commitment to human rights in their mission statements. They guarantee the freedom of teaching, learning and research as part of an understanding of knowledge which is based on democratic principles, and express their commitment to a humane, liberal and just society, the realisation of gender equality,

the consideration of the special concerns and needs of persons with disabilities and those who are ill, the elimination and prevention of all kinds of discrimination, and international understanding. Going beyond the existing protection mechanisms, the Länder are working to ensure that the GETA's prohibitions of discrimination are applied to and for the benefit of all members of higher education institutions. This can be achieved in the legislation on higher education, or alternatively it can be guaranteed via target agreements or similar instruments. In this context, the establishment of a right of complaint in line with the GETA is regarded as particularly important, as are preventive measures. Employees have the right to complain to the competent office of the establishment, company or authority if they feel they have been discriminated against.

1.2.4 Projects to promote the integration of children and young people with a migration background

29. The Federal Government is funding around 450 Youth Migration Services across the country; they advise and support young people with a migration background on their school, occupational, social and linguistic integration, focusing on the transition from school to work. These services cooperate with parents, schools and businesses.

30. Regarding the framework project for the pilot project "jmd2start — advising young refugees", see Annex 4, p. 10.

(Recommendation No. 13)

2. Situation of asylum seekers — access to the labour market and social benefits

31. The EU Member States ensure that applicants have access to the labour market no later than nine months from the date when the application for international protection was lodged if a first instance decision by the competent authority has not been taken and the delay cannot be attributed to the applicant (Article 15 (1) of Directive 2013/33/EU). Germany has transposed this requirement into national law. In principle, asylum applicants can receive permission from the foreigner's authority, with the consent of the Federal Employment Agency (FEA), to take up employment after three months of residence in Germany.

32. The Federal Government has also made use of the option provided for by Article 15 (2) of Directive 2013/33/EU, under which the Member States may give priority, on the grounds of labour market policy, to EU citizens, nationals of States Parties to the Agreement on the European Economic Area, and legally resident third-country nationals. Before giving consent, the FEA checks whether workers with priority are available for the employment which an asylum seeker intends to take up. To make it easier for asylum seekers to take up employment, this labour market priority test has been generally waived in most of the FEA's districts for a three-year period, with effect from the entry into force of the Ordinance relating to the Integration Act on 6 August 2016.

33. During the period covered by this report, the Federal Government has implemented the requirements set out in the Federal Constitutional Court's (FCC) judgment of 18 July 2012 and created a new system for cash benefits for asylum seekers which is in line with the constitution. This new system set the rates for basic benefits provided under the Act on Benefits for Asylum Applicants (ABAA) in a transparent, appropriate and needs-based manner with effect from 1 March 2015, and in future these rates must be updated regularly. At the same time, an entitlement to benefits relating to education and participation was introduced for all children and young people in the ABAA.

34. The ABAA underwent further amendments as a result of the First Asylum Package of 20 October 2015, the Second Asylum Package of 11 March 2016, and the Integration Act. As far as possible, the need for cash in initial reception centres has been replaced by benefits in kind. This ensures that benefits are used to meet asylum applicants' needs, with no money going to human traffickers. The Second Asylum Package made access to full benefits conditional on individuals registering and going to the competent reception centre, in order to ensure the early registration and distribution of asylum seekers and thus to promote the orderly and rapid processing of asylum applications. In addition, needs were

recalculated and reduced, as certain items are only relevant for persons with consolidated residence status. The IA introduced an obligation — backed by sanctions — for certain persons entitled to benefits under the ABAA to attend integration courses. In line with the principle that with rights come responsibilities, the state's services to promote integration are to carry an obligation for individuals to make efforts to integrate, with benefits being restricted in the event that they fail to meet this obligation.

35. Where the newly defined basic benefits under the ABAA differ from the standard benefits under Book II of the Social Code (SCBII) and under Book XII of the Social Code (SCBXII), this is justified by the fact that persons entitled to benefits have special needs at the beginning of their residence. The FCC also ruled in its judgment of 18 July 2012 — in which it referred to the ICESCR — that it is permissible in principle to provide different benefits to persons with limited residence prospects. In implementation of this judgment, the period for which individuals receive basic benefits was reduced from 48 to 15 months after arrival in the country. In principle, asylum seekers are now entitled to benefits in line with SCBXII after just 15 months.

36. In addition to this reduction in the period for which asylum seekers receive basic benefits, health care for asylum seekers was improved. After 15 months, they receive, in principle, the same level of health services as provided by statutory health insurance, and they receive services from the health insurance funds in the same way as recipients of social assistance. With the First Asylum Package of 20 October 2015, the Federal Government has also improved asylum seekers' access to vaccinations under the ABAA. Further changes expand the possibilities of providing benefits in kind to asylum seekers in initial reception centres and collective accommodation.

37. Asylum seekers also receive appropriate health care before the end of the 15-month period under the existing rules. And this is not restricted solely to emergency care. Although in principle the entitlement only covers services relating to the treatment of acute illnesses or pain (Section 4 (1) of the ABAA), it is also supplemented by "other services" if these are essential to safeguard health or required to meet children's particular needs (Section 6 (1) of the ABAA). This enables the competent authority to meet special needs in individual cases.

(Recommendation No. 14)

3. Unemployment rates in eastern and western Germany

38. German labour market policy aims to prevent or reduce unemployment and need. In this context, the focus is on the individual, not on special regional or Länder-specific issues.

39. The average number of unemployed nationwide in 2015 was around 2,795,000 people (west: 2,021,000, east: 774,000). The unemployment rate (as a proportion of the total civilian labour force) was 6.4% (west: 5.7%, east: 9.2%).

40. Compared to 2008, the number of unemployed persons nationwide has fallen by a total of 14.2%. The scale of the fall in unemployment varies in eastern and western Germany. While unemployment in western Germany declined by 5.5%, falls of up to 30.9% have been recorded in eastern Germany.

41. Although in 2015 the unemployment rate in the eastern Länder is still 3.5 percentage points higher than in the western Länder, it is continuing to move closer to the federal average. All eastern Länder saw a fall in the average annual unemployment rate. As well as the east-west disparity, regional disparities exist depending on the structural strength of the region in question, and reducing these disparities is a constant objective. To equalise the disparate financial capacities of the Länder, a process of financial equalisation among the Länder exists in Germany.

42. Further information on federal programmes in the 2014-2020 programming period is contained in Annex 5, p. 11ff.

(Recommendation No. 17)

4. Unemployment of persons with disabilities

4.1 Labour market situation of persons with severe disabilities — employment

43. The FEA publishes annual data on the employment situation of persons with severe disabilities. According to its statistics, the number of persons with severe disabilities employed by employers with twenty or more positions rose by 207,000 to 1,014,071 between 2007 and 2014. That is an increase of around 42% compared to 2002. The employment rate rose from 3.8 to 4.7% over this period. Although the statutory target of 5% has not yet been achieved, the trend is positive. The number of employers subject to a quota obligation who do not employ any persons with severe disabilities fell from 58,219 in 2002 to 39,101 in 2014. In addition, around 7,000 apprentices with severe disabilities were recorded in 2014; this figure has risen continuously since 2007 — and has done so by almost a third (1,600 people).

44. The Federal Government published its Report on Participation with regard to the circumstances of persons with disabilities in 2013. It contains information, based on data from the 2010 Socio-Economic Panel, on the unemployment of persons who live with impairments but are not recognised as having a disability or severe disability.

45. In order to achieve a lasting improvement in the data to be used in future reports on participation, and to obtain reliable, up-to-date data, Germany plans to conduct a representative survey on the participation of persons with disabilities from 2016 onwards.

46. A multi-year overview is provided by the table in Annex 6, p. 29.

4.2 Measures to promote the employment of persons with disabilities

47. The FEA provides services to promote participation in working life for the initial integration of young people and the reintegration of adults with disabilities (or potential disabilities). It spent around EUR 2.3 billion on this in 2015. A further EUR 85 million was spent on support for persons with severe disabilities in 2015.

48. In line with the guiding principle of inclusion, the FEA's support policy is based on the principle of "as general as possible, as disability-specific as necessary". Consequently, persons with disabilities can access all of the general services to promote employment which can be granted to any jobseeker. These include services for activation and vocational integration, services to promote pre-vocational training and vocational training, including the vocational training grant and assisted training (introduced in 2015), services to promote continuing vocational education and training, and services to promote the take-up of self-employment.

49. The FEA also provides special services to promote participation in working life if these are necessary due to the nature or severity of the disability, for example support for initial and continuing vocational training in occupational rehabilitation institutions, and supported employment.

50. The FEA is also the rehabilitation fund for services to promote participation in working life for employable persons with disabilities who are entitled to benefits (SCBII), unless another rehabilitation fund is responsible. Entitled young people and adults with disabilities thus have full access to the labour-market services to promote participation. Municipal integration services (Section 16a of SCBII), such as psychosocial support or addiction counselling, are also available to persons undergoing rehabilitation and persons with severe disabilities.

51. In addition, the Länder have various programmes which support measures to improve the employment and vocational training situation for persons with disabilities.

4.3 Supplementary measures

52. For labour market integration to be successful, it is important to persuade employers to support the vocational training and employment of persons with disabilities, and to

support them in this. The FEA is an important cooperation partner in this context, especially in the employment-related measures enshrined in the Federal Government's first and second NAPs to Implement the UN Convention on the Rights of Persons with Disabilities.

53. A central employment-related element of the first NAP is the Inclusion Initiative. A total of EUR 140 million from the national rehabilitation fund is to be used to improve the integration of persons with severe disabilities in the regular labour market between 2011 and 2018. The Inclusion Initiative's fields of action can be found in Annex 7, p. 30.

In addition to the Inclusion Initiative, in October 2013 the Federal Ministry of Labour and Social Affairs (BMAS) reached an agreement with the main labour-market actors on the Inclusion Initiative for Training and Employment.

(Recommendation No. 26)

5. Transsexual and intersex persons

54. In September 2014, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) established an interministerial Working Group on Intersexuality/Transsexuality. It is tasked with examining the special situation of intersex persons (persons with congenital variations in sex characteristics) and transsexual or transgender persons (as set out in the coalition agreement). The overarching aim is to establish societal diversity in all areas of life. In consultation with specialists and interest groups, the situation of these persons is to be examined, necessary legislative solutions are to be discussed, and proposals to be drawn up.

5.1 End the grouping of these persons with persons with mental illness

55. The International Classification of Diseases (ICD) is the most important, globally recognised medical classification system. It is published by the World Health Organization. The current, internationally applicable edition is ICD-10.

56. ICD-11 is being prepared by WHO and is due to be adopted by the World Health Assembly in May 2018. It contains a new chapter on "Conditions related to sexual health", which includes a code for "Gender incongruence". A discussion is taking place within WHO on removing this area from the chapter on "Mental and behavioural disorders". It is not yet clear whether this will remain the case by the time ICD-11 is adopted in 2018. If it does, it would no longer be possible to directly classify transsexualism together with mental illnesses. If the discussions move in a positive direction and ICD-11 is adopted without transsexual persons being directly classified together with persons with mental illness, Germany will examine the adoption of this approach in national law.

5.2 Ensuring adequate protection of children with congenital variations in physical sex characteristics (intersex children) from irreversible operative and medication interventions

57. On 27 March 2015, the German Medical Association published an opinion entitled "Care of children, young people and adults with differences/disorders of sex development" in the Deutsches Ärzteblatt. This opinion assumes that medical and clinical practitioners will take decisions based on these standards in the best interests of their patients. The opinion has indirect binding effect on the basis of the law governing professional matters, and also with regard to liability risks.

58. In addition, revised guidelines on "differences of sex development" were published by the Association of the Scientific Medical Societies in August 2016.

59. The statistical data on diagnoses and surgeries is currently being analysed with the aim of producing reliable findings on the frequency of medical interventions on children with congenital variations in physical sex characteristics.

5.3 Expansion of counselling and information services for intersex persons, their family members, the general public and specialist structures

60. The BMFSFJ sees its task as being to provide additional support for education and awareness-raising among parents and medical practitioners, and to offer encouragement to the former. On 10 December 2015, a leaflet on this subject, entitled "Your intersex child" and financed by the BMFSFJ, was published and widely distributed. The fundamental idea is to prioritise the child's right of self-determination.

61. The spring of 2016 saw the completion of guidelines entitled "Psychosocial counselling of transgender and intersex persons and their family members. Guidelines for practitioners in pregnancy, sex, partnership and family planning counselling", published by Pro Familia and funded by the BMFSFJ. They offer a first guide for psychosocial counselling services on the subject of transsexuality and intersexuality as well as transgender and intergender issues. The guidelines provide information and competencies for professional and human rights-based counselling.

5.4 Need for changes to the law on the civil status of persons

62. To identify what changes to the law are necessary with regard to transsexuality and intersexuality, the BMFSFJ has commissioned two reports: "Gender in the law — status quo and the development of regulatory models for the recognition and protection of gender identity" and "The need for regulation and reform for transsexual/transgender persons". One of the questions to be examined, in light of experiences of discrimination and exclusion, is whether it might be possible to dispense with "gender" as a category in legal relations, at least, as is the case for "ethnic origin", for example, or whether — for intersex persons — an additional gender option should at least be introduced in the law on the civil status of persons. The German Ethics Council3 has therefore recommended an examination of whether gender can be dispensed with as a classification category in the law. The results are expected in the late autumn of 2016.

Regarding Article 3
Equality between men and women

(Recommendation No. 15)

1. Equal representation in executive positions

63. The Act on the Equal Participation of Women and Men in Executive Positions in the Private Sector and Public Service of 24 April 2015 firstly requires listed companies with full co-determination to meet a 30% gender quota for their supervisory boards, effective from 1 January 2016. Secondly, companies which are listed or have co-determination have been required since 2015 to set targets for women's representation and deadlines for meeting them. These targets must be set for the supervisory board (only if the fixed gender quota does not already apply), the executive board, and for the two highest management levels below the executive board.

64. The revised versions of the Appointments to Federal Bodies Act and the Federal Act on Gender Equality entered into force on 1 May 2015. The former provides for a fixed 30% gender quota for the members of supervisory bodies to be appointed by the Federation. The Federal Act on Gender Equality simplifies combining work and family life, including via the following new provision: federal authorities and social security agencies may reimburse their employees for the costs incurred for necessary additional childcare or care for family members in need of care if they undertake a business trip or travel to attend training courses. The Act's implementation was facilitated by better and more flexible personnel resources for gender equality officers.

65. To further boost the number of women in executive positions in the private sector, the BMFSFJ is supporting flanking sub-legislative measures, alongside the statutory provisions in the Federal Act on Gender Equality.

66. Regarding the "Regional Equal Opportunities Alliances" project, see Annex 8, p. 33.

1.1 Wage equality

67. In Germany, the statistical gender pay gap, in terms of average gross hourly earnings, is 21% (east: 8%/west: 23%4). A number of interrelated structural causes contribute to this:

- Choice of occupation: Women are more likely to work in low-paid sectors and occupations, such as social or personal services
- (Longer) career breaks for family reasons and subsequent part-time and marginal employment upon returning to work: 46% of women in jobs with compulsory social insurance coverage work part-time. 3.1 million only have a low-paid job ("mini-jobs")
- Fewer career opportunities: Women are underrepresented in executive positions, especially the top positions
- Role models: Stereotypes and gender-specific attributions have an influence on job evaluations, performance appraisals or recruitment and can lead to disadvantages and discrimination

68. The pay gap of 21% is thus an indicator of the disparities in the presence and income prospects of women and men in the labour market. However, even if men and women have the same formal qualifications and other characteristics, the pay gap is still 7%. The following measures therefore aim to raise awareness, open up new priority areas for action, and activate the key players.

69. The Federal Government continues to focus on a cause-specific strategy to overcome wage inequality: in 2010, in line with European requirements, it defined the gender pay gap as an indicator in its Progress Report on the National Sustainable Development Strategy which will be used to measure differences in earnings and equality in working life. The aim is to reduce the pay gap, in terms of average gross hourly earnings, to 10% by 2020.

70. The Federal Government wants to ensure that the principle of "equal pay for equal work or work of equal value" is increasingly upheld. The coalition agreement states that companies with 500 or more employees are required to comment, in line with statutory criteria, on positive action for women and wage equality in the management report they publish under the Commercial Code. Further, an individual right to information for employees is to be defined. Prospectively, companies will be called on to take responsibility for eliminating identified pay discrimination with the help of binding procedures, and to involve employees and their workplace representative bodies in this process.

71. Further initiatives: Annex 9, p. 34.

(Recommendation No. 16)

2. Women's equal enjoyment of the right to work

72. Ensuring gender equality in practice at work is a central aim of the Federal Government's policies. Its measures are focused on expanding child day care, enhancing the conditions for people to combine family, caring and work commitments in partnership, making it easier to return to work after career breaks for family reasons, and reducing gender-specific wage inequality.

2.1 Trends in women's employment

73. See Annex 10, p. 38.

2.2 Expansion of child day care

74. By introducing a legal entitlement to early childhood education for all children from the age of one, which came into effect on 1 August 2013, the Federation has set a milestone in terms of needs-oriented child day care. The huge increase in childcare places for children under the age of three is largely due to the financial support provided by the Federation and

the efforts undertaken by the Länder. Between 2007 and 2015, the number of children under the age of three taking up childcare places more than doubled. Over the period to 2014, the Federation made a total of EUR 5.4 billion available to fund the expansion in childcare, and from 2015 its support has been placed on a permanent footing, with EUR 845 million being provided annually.

75. To meet the rising demand for childcare places, the Federation is topping up the funding for the expansion in child day care centres by EUR 550 million in this electoral term, taking the total to one billion euros. The legal basis for this was created with the entry into force on 1 January 2015 of the Act to Provide Further Relief to the Länder and Municipalities from 2015 and to Expand and Upgrade Child Day Care. The Länder are also to receive an additional EUR 100 million towards the operating costs annually in 2017 and 2018.

76. Additionally, the quality of child day care services is to be further enhanced. On 6 November 2014, the Federation reached agreement with the Länder on a binding process to develop joint quality targets for child day care, with the involvement of the local authority central organisations and in dialogue with the organisations responsible for child day care. The first implementation report is to be published at the end of 2016.

77. By abolishing the childcare benefit for home-based care, the Federation is also providing a total of EUR 1.983 billion in relief to the Länder in the period from 2016 to 2018 to improve childcare.

2.3 Improved conditions for combining work and family life

78. Improving the conditions to allow work and family commitments to be met in partnership is an important aim for the Federal Government.

79. The Act for Improving the Work-Family-Care Balance introduced important changes, designed to make it easier to combine caring and work, in the Care Leave Act, the Family Care Leave Act and Book XI of the Social Code (SCBXI); these changes entered into force on 1 January 2015. The existing provisions of the Care Leave Act and the Family Care Leave Act were dovetailed and further developed.

80. The existing possibility of a short-term absence from work enabling employees to be absent for up to ten working days if necessary to organise proper care for a close relative to meet acute needs or to secure long-term care during this time, has been supplemented by the possibility of receiving a care assistance allowance as an income-replacement benefit.

81. Care leave, i.e. the entitlement to complete or partial leave for up to six months, which has existed since 2008, has been extended by the addition of the possibility of caring for close underage relatives in need of long-term care. Since 1 January 2015, it has been possible to take complete or partial leave for up to three months to attend to a close relative in the last phase of life. Those who take leave are entitled to financial support in the form of an interest-free loan, which can be requested from the Federal Office of Family Affairs and Civil Society Functions.

82. Since 1 January 2015, there has been a legal entitlement to partial leave for up to 24 months with a minimum working week of 15 hours. In this case, too, financial support for the period of leave is possible in the form of an interest-free loan.

83. The new provisions encourage the sharing of care responsibilities. Siblings can, for example, work part-time and jointly care for their mother or father. Or family members with care responsibilities leave consecutively.

84. The entitlement to complete or partial leave under the Care Leave Act and the Family Care Leave Act, together with employees' right to return to work post-leave with the same working conditions, protects employees from being forced to give up work against their wishes. This enables an employee to ensure care for a close relative, whether to meet acute needs or for a longer period, without facing professional disadvantages.

85. The parental allowance (PA) plus, introduced with effect from 1 July 2015, supports part-time employment during parental leave and thus an early return to work following a

child's birth. A non-transferable partnership bonus in the PA provides incentives for childcare responsibilities to be shared in partnership.

86. Regarding the regulations on the PA, see section 2.1 and Annex 11, p. 89.

2.4 Dismantling stereotypical gender roles

87. Campaigns such as Girls' and Boys' Day are having an impact on young people's career selection. A range of initiatives, supported by businesses, associations, the Länder and the Federal Government, is aiming to increase women's participation in technical and scientific occupations. The Federal Government is also working towards the implementation of gender-equitable career and higher education guidance offering information about all occupational and earning possibilities for girls and boys and supporting decision-making as free as possible from gender-specific stereotypes. In the framework of the federal initiative "Gender-equitable career and higher education decision-making", experts are drawing up recommendations for action and, from 2016, a joint strategy and implementation measures.

B. Individual rights guaranteed by the Covenant

Regarding Article 6
Right to work

88. The German labour market is in a healthy condition. Since 2007, unemployment (ILO definition) declined by 4.1 percentage points to average 4.6% in 2015. In the fourth quarter of 2015, it amounted to 4.5%, 0.5 percentage points below the same quarter in the previous year. At about 43 million according to national accounts, the number of persons in work in Germany reached a new record in 2015.

89. In particular to alleviate the adverse effects of the economic and financial crisis in 2009/2010 on employment and also make a larger contribution to securing the supply of skilled labour, the promotion of continuing (vocational) education and training has been upgraded into a key labour-market policy instrument since 2008. In response to the economic and financial crisis, admissions to publicly-funded continuing education and training courses rose to over 600,000 in 2009, for example, with the total numbering over 2.8 million between 2008 and 2014. Over EUR 18 billion was provided for this.

1. Measures for reducing unemployment among particular groups

1.1 Employment prospects for single parents and women

90. As underlined by related amendments to employment promotion law under SGB III and to basic provision for jobseekers (BPJ) under SGB II, the legislator attaches great importance to gender equality in active labour-market policy. By 1 January 2009, the Act on Reforming Labour-Market Policy Instruments places even greater emphasis on gender equality as a principle to be applied throughout employment promotion.

91. From 2009 to 2013, the Federal Ministry of Labour and Social Affairs pursued a priority field of activity to improve job prospects for single parents and women,5 which included the implementation of two federal programmes co-financed by the European Social Fund (ESF): "Good Work for Single Parents" (funding for devising and testing innovative initiatives for the labour-market integration of single parents from 2009 to 2012) and Networks for Effective Assistance to Single Parents (setting up local and regional networks for coordinating the activities of all the relevant actors and their assistance for single parents from 2011 to 2013). Moreover, in a joint campaign with the FEA under the Skilled Labour Offensive called "Creating Job Opportunities for Single Parents", the ministry placed a special focus on contacting employers and raising their awareness. The various activities have provided a major impetus that has been taken up or continued by job centres and employment agencies. Although the programmes to assist single parents have

care expand, many job centres and employment agencies continue to focus on this target group.

92. The Federal Government also helps women return to working life with the IAB "Perspective Re-entry" pilot programme launched in 2009. The aim of this programme is to assist qualified women to re-enter socially-insured employment after a multi-year career break due to family commitments. Moreover, the IEA has combined the most successful modules into a permanent labour-market measure and incorporated them in standard assistance.

1.2 Dual vocational training for the labour-market integration of young people

93. The employment situation for young people in Germany is good by European and international standards. The national annual average unemployment rate for under 25-year-olds (Eurostat) amounted to 7.2% in 2015, as compared with 20.4% for the European Union as the same year, with Germany recording the lowest EU rate. Besides the favourable economic climate, the reasons for this are in particular dual training, measures preventing unemployment among school-leavers and prospective trainees and the Alliance for Initial and Further Training. Dual vocational training affords young people good opportunities for lasting occupational integration.

94. Various measures are designed to help disadvantaged young people without an occupational qualification to successfully complete in-company vocational training. The instrument of assisted vocational training provides young people with individual, ongoing support and socio-pedagogical guidance, particularly also at their training enterprises.

95. Youth with learning difficulties and social disadvantages who cannot take up in-company vocational training even with training assistance can obtain a vocational training qualification through extra-company training to facilitate their integration into employment.

96. In addition, introductory training in the form of a long-term traineeship enables young people who for individual reasons have limited placement prospects to gain access to in-company vocational training by acquiring initial practical occupational experience.

97. To help younger adults without vocational training to obtain a qualification, the [illegible] and the FEA started the joint initiative "Training works — Late-starters wanted" in February 2013. The aim between 2013 and 2015 was to recruit altogether 100,000 young adults for vocational training leading to a certificate. With over 98,000 admissions to continuing education and training leading to a certificate or regular vocational training, the initiative achieved its target. This does not include admissions via municipal job centres under SG III. The initiative was then renamed "Zukunftsstarter", continued with renewed vigour on 1 August 2016 and upgraded in pursuance of the Act on Enhancing Continuing Vocational Education and Training and Insurance Coverage in Unemployment Insurance, which entered into force on that date.

1.4 Labour-market integration of older people

98. To improve the employment prospects of older long-term unemployed persons over 50, the [illegible] initiated the programme "Perspective 50plus — Regional employment pacts" in 2005. This programme underwent altogether three phases and was completed after ten successful years at the end of 2015. A total of more than 140,000 older people were integrated into regular employment. These positive experiences will benefit all long-term unemployed persons in future and be incorporated into the Networks for Activation, Counselling and Opportunities, started at the beginning of 2016.

1.6 Integration of persons with disabilities

99. [illegible] see Article 2, Recommendation 17 on page 8.

1.5 Combating long-term unemployment

100. The scheme "Opening up Opportunities — Safeguarding Social Participation" makes a contribution to reducing long-term unemployment. It contains a broad package of measures with different priorities, target groups and approaches. There are many different

systems for long-term unemployment, including low skills (lack of school-leaving and occupational certificates), advanced age and health ailments.

For the contents of the scheme, see Annex 12, p. 40.

In addition, over 200 Länder programmes make a substantial contribution to improving the situation of long-term unemployed persons. The Länder and local authorities carry out labour-market programmes on their own and also top up the available funding.

2. Informal employment

The Federal Government attaches great importance to combating informal and illegal employment. Measures are based on the Control of Undeclared Employment Act. To effectively counter informal and illegal employment, the investigative and prosecutorial authority has been concentrated at national level with the Federal Customs Administration now in charge of enforcing the law on illegal employment and benefit fraud.

For more on informal and illegal employment, see Annex 13, p. 41.

3. Protection against dismissal

Employees in Germany are protected against unfair dismissal under the Protection against Dismissal Act and the general provisions of the German Civil Code.

For more on protection against dismissal, see Annex 14, p. 44.

(Recommendation No. 19)

4. Working conditions for prisoners

The penal system in the federally organised Federal Republic of Germany lies under the respective purview of the Länder. Inmates are either employed by private enterprises inside the prisons or during day release outside of the institution. They always work under the public-law responsibility of the respective penal institution. The private firms can only issue technical and professional directions. All other oversight responsibility lies with the penal establishment. The prisoners are subject to the same legal and regulatory provisions on operational safety, occupational safety and health, accident prevention and working hours as non-prisoners, which is supervised by the prisons and responsible local external institutions. Frequently also contractual agreements are reached between the penal institution and the respective private enterprise on compliance with certain labour and safety standards and adequate pay before the prisoners begin work. Where privileged prisoners work outside the detention centres at private companies on free employment terms, this is based on regular labour law under the same conditions as for all employees and on a contract of employment under private law.

(Recommendation No. 19)

5. Acceptable work in unemployment assistance (unemployment benefits (UB) and basic provision for jobseekers (BP))

Employment promotion services, also including job placement, should facilitate individual employability by maintaining knowledge and skills and seek to prevent inferior employment. Employment agencies pursue these aims in their placement operations. Accordingly, they primarily look to place UB claimants in keeping with their qualifications. As a trade-off must be made between the interests of the unemployed person and those of all contributors to unemployment insurance, benefit claimants can generally be reasonably expected to take up work in other areas for which they are suitable, provided it is adequately paid. If the unemployed person refuses to take up acceptable employment, the payment of UB is suspended for three weeks, in the case of a second refusal, by six weeks and in future cases, by twelve weeks. Personal grounds for an unacceptable job offer are recognised if the pay is substantially lower than the previous remuneration serving as the UB assessment basis (in the first 3 months, 20% less is acceptable, 30%, in the following 3 months and as of the 7th month a job vacancy is only deemed unacceptable if the

remuneration would be less than the UB). As a consequence of limiting the acceptability to occupations with similar pay, jobseekers are usually placed in a similar occupation.

109. For fit-for-work beneficiaries of BPJ, the principle of subsidiarity applied to public services obliges them to take up all acceptable work. They are held primarily responsible for their own livelihood. The government should only support them with tax-funded benefits if they are unable to overcome their need for assistance on their own. This does not, however, imply that the beneficiary must always accept the work. Work is unacceptable, if:

- The fit-for-work benefit recipient is physically, mentally or psychologically unable to perform the work;
- The work would substantially impair the future performance of the occupation largely conducted so far due to the physical demands entailed;
- The performance of the work would be detrimental to the upbringing of a child (especially children under three);
- It is incompatible with the care of a family member and this care cannot be provided in another way;
- There is another major reason why the work cannot be performed.

110. These criteria for unacceptability therefore ensure that no-one is compelled to take up unacceptable work and they do not just apply to taking up employment, but also to labour-market integration measures.

6. Acceptable work in the area of social assistance (SA)

111. Even after the combination of UB and social assistance into BPJ (SCBII), ways must be found and supported to help people who are currently incapable of gainful employment to lead a self-reliant life as independently as possible without SA. This applies for all SA recipients alike. Instruments are being strengthened to foster an active life and gain independence from assistance. High priority is attached to greater responsibility on the part of beneficiaries. To achieve this, particular emphasis is placed on stepping up specific advice and support, strengthening reliable and systematic options for SA agencies and benefit recipients and on personalised support paving the way out of SA. Applying the principle of rights and responsibilities, the beneficiary is expected to bear greater responsibility. As a trade-off must also be made here between the interests of benefit recipients and taxpayers, claimants of SA can generally be expected to take up work that they can perform with their remaining physical powers and mental faculties, in keeping with their disposition and ability. As beneficiaries of SA are considered to be unable to work, that is, unable in the foreseeable future to engage in gainful employment for at least 3 hours a day due to illness or disability, the usual conditions of the regular labour market do not apply.

112. For persons who remain dependent on SA, only personal acceptability criteria have been adopted with the introduction of the act. An activity is unacceptable, if:

- The unfit-for-work benefit recipient is physically, mentally or psychologically unable to perform the work;
- The performance of the work would be detrimental to the upbringing of a child (especially children under three);
- It is incompatible with the care of a family member and this care cannot be provided in another way.

113. These criteria therefore ensure that no-one is compelled to take up unacceptable work. All acceptability criteria are interpreted and applied in the light of relevant fundamental rights. This rules out any infringements of Articles 6 and 7 of the Covenant.

Regarding Article 7
Right to just and favourable conditions of work

1. Statutory minimum wage

114. With the Minimum Wage Act (MWA), Germany introduced a general statutory minimum wage of EUR 8.50 as of 1 January 2015. It applies, in principle, for all employees engaged within the country regardless of the location of the employer and thus also for employees posted from abroad to Germany.

115. The MWA also provides for paying a general minimum wage to interns.

116. For more detail on the MWA, see Annex 15 p. 47.

2. Workplace safety and health

117. Germany has diverse and effective occupational safety and health (OSH) rules. Grounded in public law, OSH places a statutory obligation on the employer to comply with legal provisions. It is largely subject to European and international standards.

118. OSH rules are implemented on the one hand by the Länder with advisory and supervisory measures. Alternatively, this task is also performed by public occupational accident insurance institutions, which have their own supervisory services. Owing to these two separate prevention mandates of government and occupational accident insurance providers, the system is also called the dual OSH system. The Federal Government, the Länder and the occupational accident insurance providers agreed in 2008 to collaborate closely in performing their OSH and preventive tasks and drafted the Joint German Safety and Health Initiative for this.

119. The fundamental OSH law since 1996 has been the Occupational Safety and Health Act, which contains the basic OSH duties of employers and employees. Of particular importance here is the obligation of the employer to make assessments to ascertain and rate workplace health hazards to be able to specify and carry out appropriate protective measures. The Act is supplemented with operationalised regulations for certain specific areas of OSH, such as the Workplaces Ordinance, the Workplace Safety Regulations and the Occupational Health Care Ordinance.

120. The Federal Government yearly reports findings on workplace accidents and the state of OSH to the Bundestag and the Bundesrat.

3. Workplace health promotion measures

121. Statutory in-company OSH is supplemented with measures for workplace health promotion, which are stipulated as the task of statutory health insurance in Sections 20 et seqq. of SGBV. Partly to reinforce these preventive measures and set up health promotion structures, the Prevention Act was adopted in 2015. Based on an assessment of the health status of the insured persons with the participation of all stakeholders and taking account of hazard assessments by enterprises, proposals are made for improving health and enhancing health resources. The health insurance funds offer companies advice and support via their regional agencies. By virtue of the joint interest and understanding in planning prevention aspects in workplace health, the statutory health insurance funds work closely with the Länder authorities in charge of statutory OSH and the statutory occupational accident insurance providers and also include the fields of activity of the Joint German Safety and Health Initiative (GDA).

Regarding Article 8
Right to take part in trade union activities

(Recommendation No. 20)

1. Prohibition of strikes for members of the public service that do not provide services of essential public interest

122. The prohibition of strikes is a traditional principle of the professional civil service under the Basic Law (Article 33(5)) and applies for judges, career and temporary-career soldiers and civil servants.

123. The strike ban does not apply for all public servants, the large majority of whom are employees under collective agreements who are entitled to strike. Only a third of public servants have civil servant status.

124. Civil servants in Germany have a duty of service and loyalty under public law (Article 33(4) of the Basic Law). Under this legal status, they cannot be discharged of their duties for reason of life tenure.

125. In the first place, the general duty of allegiance of civil servants ensues from the mutual relationship between them and the public employer. "Following from the German administrative tradition," the FCC sees "in the professional civil service an institution (...) that based on expertise, professional performance and the loyal fulfilment of duty secures a stable administration and hence acts as a balancing factor against the political forces shaping state affairs."6 The duty of allegiance on the part of civil servants corresponds to the public employer's duty to care and provide for their welfare and safeguard their civil service status. These basic mutual obligations define the relationship of service and loyalty under public law.

126. For civil servants, securing adequate working conditions through the right to strike is replaced by an effective equivalent, i.e. the obligation of the public employer to care for them and provide their welfare as an individual right. Denying civil servants the right to strike does not therefore deprive them of protection. Rather, the obligations of the public employer arising from Article 33(5) of the Basic Law assure them of far-reaching, constitutionally guaranteed protection. The latest ruling of the FCC in particular has again reinforced the right of civil servants to receive emoluments commensurate with their official status.

127. Instead of the right to strike, the trade unions are accorded special participation rights. Section 118 of the Federal Officials Act and Section 53 of the Civil Servants Status Act require the involvement of the federations of responsible trade unions in the preparation of general provisions regulating conditions under civil-service law. This places them in a pre-eminent position compared with the "normal" participation of associations in legislative or regulatory procedures. It provides a way to take account of and promote working conditions and recompenses the trade unions for the fact that employment as a civil servant is not collectively regulated based on the right to negotiate collective agreements and to strike.

128. We therefore categorically reject the legal interpretation of the Committee that a strike prohibition for members of the public service is only permissible when and solely contingent on whether these services are of essential public interest, regardless of how the public service is organised in the respective state party and the various groups have been defined and what kind of legal status and privileges are assigned to them.

129. A constitutional dispute is currently pending at the FCC on the prohibition of strikes for civil servants. The court is considering four constitutional complaints by teachers with civil-servant status against the strike ban under civil-service law. The Federal Government has issued an opinion defending the prohibition of strikes for civil servants. It remains to be seen were these proceedings lead.

Regarding Article 9
Right to social security

1. Benefits in unemployment

130. Germany differentiates between unemployment benefits (UB) under SCBIII and basic provision for jobseekers (BPJ) under SCBII. UB under SCBIII are a benefit provided by unemployment insurance to which the insured are entitled during unemployment regardless of a means test for a certain period. Beyond this, BPJ under SCBII constitutes a tax-funded welfare system to secure the minimum subsistence needs of fit-for-work benefit recipients who cannot sustain their livelihood and that of their household dependents from their own income and assets or with other assistance.

1.1 Unemployment benefits under SCBIII

131. Everyone employed as a wage-earner or for the purpose of vocational training, receiving sickness benefits or an invalidity pension, maternity allowance or caring for a child under three years of age and who were subject to compulsory insurance or received income replacement benefits directly beforehand are generally covered by unemployment insurance. Also subject to compulsory insurance are young people in occupational rehabilitation facilities. Employees in minijobs (with remuneration not exceeding EUR 450) are not subject to compulsory insurance.

132. Everyone is entitled to UB if he/she has not yet reached the standard retirement age, is unemployed, has registered as unemployed and has met the qualifying period requirement, which specifies compulsory insurance for at least 360 calendar days in a timeframe of two years.

133. On the duration of entitlement to UB, see Annex 16, p. 48.

134. UB is assessed based on gross earnings minus statutory deductions. For unemployed persons with children, UB amount to 67% of net income and 60% for other claimants. Expenditure for UB in 2012 amounted to approx. EUR 14 billion and about EUR 15 billion annually in 2013, 2014 and 2015. Average net monthly benefit for all recipients in 2012 came to EUR 798, EUR 822 in 2013, EUR 840 in 2014 and approx. EUR 860 in 2015, plus the respective insurance contributions. As of 1 January 2011, employee and employer contributions each amount to 1.5% of wage income.

1.2 Basic provision for jobseekers under SCBII

135. BPJ under SCBII comprise livelihood assistance benefits and services aimed at ending or reducing the need for assistance, especially through the integration into employment. Livelihood assistance benefits are geared solely to needs, comprising basic needs assistance, costs of accommodation and heating and possible additional needs, special needs and needs for education and participation. Basic needs assistance is a flat-rate benefit to meet the need for food, clothing, personal hygiene, household effects, household energy (excluding heating and hot water) and the personal needs of daily life, including participation in social and cultural life in the community. The actual needs for accommodation and heating are eligible for assistance provided they are deemed reasonable. Additional account may be taken of:

- Needs under certain circumstances (e.g. for single parents);
- One-off payments (special needs) not included in basic needs assistance (e.g. initial items for furnishing an accommodation);
- Specific educational and participation needs for children, youth and young adults (under 25);
- On assessing basic needs assistance, see the contribution to (Recommendation No. 21).

2. Benefits for foreigners

136. Hereafter, 'non-contributory systems for income support' are understood as systems for securing minimum subsistence for persons in need of assistance. Under this definition, there are three benefits systems in Germany that are (also) eligible for foreigners: BPJ, social assistance and the Act on Benefits for Asylum Applicants (ABAA). BPJ includes the majority of fit-for-work persons and their household dependents. Social assistance under SCBXII largely encompasses persons not capable of working and old-age pensioners. The ABAA provides for asylum seekers in the first 15 months of their stay, and under certain circumstances holders of certain humanitarian residence permits, foreigners obliged to leave the country and those with a suspended deportation order. A requirement for financial assistance in all these benefits systems is that the recipients are incapable or insufficiently able to secure their livelihood from their own income and assets (possibly accounting for the income and assets of their household dependents or members).

2.1 Working foreigners

137. Where their gainful employment is insufficient to secure a livelihood, working foreigners (employees and self-employed persons) and their family members receive supplementary social benefits to secure their minimum subsistence as of the first day of employment, provided they meet the necessary requirements for entitlement.

2.2 Non-working foreigners

2.2.1 Basic provision for jobseekers (fit-for-work persons and their families)

138. Non-working foreigners do not generally receive BPJ. Instead, they are entitled to assistance under the ABAA or SCBXII. This also applies where they are permitted to stay in search of employment in Germany.

139. The following non-working foreigners are entitled to BPJ under the same conditions as German nationals:

- EU nationals entitled to free movement under Section 2(3) of the EU Freedom of Movement Act (applying to: temporary reduction in earning capacity due to illness or accident, involuntary unemployment after more than one year of employment in Germany, for six months in the case of involuntary unemployment after less than one year of employment and under certain circumstances the commencement of vocational training);
- EU nationals with permanent resident status (after five years of lawful stay, Section 4a of the EU Freedom of Movement Act);
- Foreigners from third countries holding a residence permit under international law or on humanitarian or political grounds;
- Family members of the above-mentioned persons.

140. Nationals from EEA states (Iceland, Liechtenstein and Norway) are treated the same as foreigners from another EU country, so that the EU Freedom of Movement Act is also of direct application to them, under Section 12 of the Act.

3. Old age security — adjustment of retirement age in pension insurance

141. With the incremental rise in the standard retirement age from 65 to 67 by 2029, the legislator adopted a major measure in 2007 to further improve the resilience of statutory pension insurance to demographic change. Beginning with the 1947 cohort, the standard retirement age will be incrementally raised from 2012 on to 67 by 2029. The incremental increase will initially amount to one month per year (standard retirement age from 65 to 66) and as of 1959 to two months per cohort (standard retirement age from 66 to 67). The statutory retirement age of 67 will apply for everyone born after 1963. Insured persons that have been engaged in gainful employment and have paid contributions into statutory pension insurance for a particularly long period will, however, still be entitled to enter early retirement at 65 with full benefits.

3.1 Introduction of the guaranteed pension in 2009

142. In 2009, the safeguard clause contained in the pension adjustment formula that had previously ruled out pension cuts due to the moderating factors introduced (including the sustainability factor) was extended to ensure that the current pension value may not be reduced even in times of declining wages. As of 2009, this therefore precludes a curtailment of gross pensions due to the pension adjustment formula.

3.2 Pension Benefit Improvement Act 2014

143. As of 1 July 2014, improvements made in pension law include:

- Full benefit pension as of 63;
- Extension of creditable child-raising periods for children born before 1992 (mothers' pensions);
- Improvements in the area of reduced earning capacity pensions.

3.2.1 Full benefit pensions as of 63

144. Under a special provision, persons that have been insured for an exceptionally long period are already entitled to a full-benefit old-age pension at the age of 63. The requirements are 45 years of compulsory contributions from employment, self-employment or nursing care or child-raising periods up to the age of 10. The retirement age of 63 for persons with a particularly long insurance record will be gradually raised to 65. The incremental increase of 2 months will begin in 2016 for the 1953 cohort and the retirement age will be raised by two additional months for every subsequent cohort; reaching a retirement age of 65 with the 1964 cohort.

3.2.2 Extension of creditable child-raising periods for children born before 1992 (mothers' pensions)

145. By extending the attributable child-raising period from 12 to 24 months, the child-raising activities of all mothers and fathers whose children were born before 1992 are better taken into account. Consequently, for every child born before 1992 one of the parents will be credited with an additional year of pension contributions calculated based on average earnings.

3.2.3 Improvements in reduced earning capacity pensions

146. People with reduced earning capacity will be better protected by two measures for assessing the related pension: Firstly, they will be treated as if they had continued to work with their previous average income for two more years. Moreover, the last 4 years prior to the reduction in earning capacity will not be attributed in the assessment if they would reduce the pension (e.g. due to a shift to part-time work).

(Recommendation No. 21)

4. Livelihood protection benefits

147. In response to the verdict of the FCC in 2010, the Federal Government reappraised and made improvements to the procedure for assessing livelihood protection benefits. This was then discussed in detail in legislative proceedings and adopted by parliament (Standard Needs Assessment Act). The amount of subsistence benefits was therefore reassessed as of 2011 and has since been increased as of 1 January every year based on a composite index of price and net wage income developments to ensure that the real value of livelihood assistance does not decrease and claimants can partake in increased social prosperity.

148. The Federal Social Court already reviewed this assessment method in 2012 and deemed it lawful and the FCC confirmed the 2014 annual increase as reasonable and constitutional.

149. In the course of a statutory review of livelihood protection benefits in 2016, the Federal Government reappraised the assessment method applying current statistical data and drafted legislation based on this reassessment to reset the benefit amount as of 2017.

150. In these calculations, the needs of children and youth were each ascertained separately. As a result, account is taken of the changing requirements of children as they grow older by distinguishing among the age groups of under 5, 6 to 13 and 14 to 17.

151. For more detail on individual benefits for children, youth and young adults, see Annex 17, p. 49.

5. Taxable portion of pensions

152. The fiscal treatment of pensions underwent a fundamental change with the Pension Income Act of 1 January 2005. This implemented the requirements of the FCC, which ruled the previous legal provisions on the taxation of pensions on the one hand and pensions of civil servants on the other hand to be unconstitutional. Only the interest portion of pensions from statutory pension insurance used to be liable to taxation, while civil servant pensions had been taxed in full, accounting for an allowance. This constituted an objectively unjustified tax privilege for those drawing contribution-based pensions. To ensure equitable fiscal treatment of pensions and pensions of civil servants, the system was converted to deferred taxation.

153. The transition to deferred taxation was planned to take place successively. The new provisions aimed to prevent the double taxation of contributions to statutory pension insurances, because these pensions are based in part on taxpayers' own contributions, which were not treated as tax-deductible in past years. The other portion consists of the tax-free employer's contribution to pension insurance and the possibility of deducting this from tax as a special expense. A transitional arrangement was made, where the taxable portion of the pension is raised in tandem with the retiree cohort. For pensions beginning in 2005 or previous years, the taxable portion amounts to 50%. Since 2006, this ratio will be gradually raised for new pensioners each retirement year to 100% by 2040.

154. Not until 2020 will persons entering retirement pay tax on 80% of their pensions. Up to that time, employer contributions to statutory pension insurance will have been fully tax-free and an increasing ratio of their own expenditure deductible (88% in 2019). Assuming no amendment to legislation until 2020, pensions from statutory pension insurance amounting to approx. EUR 12,557 in that year would be generally tax-free, provided they are the only the source of income.

155. On income tax law in general, see Annex 18, p. 50.

(Recommendation No. 22)

6. Unequal treatment of social security claims between eastern and western Länder

156. The pension entitlements of former East German (deputy) ministers from GDR pension schemes are not the result of their location in the eastern or western Länder, but are a consequence of over 40 years of full separation of states with two different social orders. Even prior to German reunification, the democratically elected People's Chamber of the GDR had already made commitments as part of the creation of a monetary, economic and social union to discontinue East Germany's supplementary and special pension schemes and transfer previous accrued claims to statutory pension insurance. Simultaneously, the GDR legislator curtailed the entitlements from the pension scheme for GDR officials, where these exceeded DM 1,500. In keeping with the guaranteed payment amount set out in the Unification Treaty, the Federal Republic of Germany took over these pension entitlements as payment amounts with property rights, which must also be adjusted at regular intervals by order of the FCC.

157. It is not therefore an act of discrimination when the German federal legislator does not treat (deputy) ministers with entitlements from GDR pension schemes after reunification as if they had been employed and discharged their ministerial duties in the Federal Republic of Germany.

(Recommendation No. 24)

7. Poverty line and anti-poverty programme

158. Recommendation No. 24 presupposes that the cited 13% of the population below the poverty risk threshold do not receive adequate benefits or earn sufficient income that exceeds the needs threshold of means-tested benefits. These aspects should not be equated with each other, as the at-risk-of-poverty rate is taken as an indicator for relative income poverty, which is concerned with participation in societal income trends, whereas means-tested benefits aim to meet minimum socio-cultural needs.

159. The at-risk-of-poverty rates of both the entire population and the labour force in Germany in 2014 were roughly equivalent to the European average. If additional account is taken of the fact that the rates in Germany pertain to a level of income (in terms of real purchasing power) that ranks in the upper third segment of the EU, they frequently suffice for a standard of living that is considered adequate in many EU member states.

160. It is also incorrect to assert that the receipt of supplementary benefits claimed because earned income is insufficient "may be indicative of inadequate levels of benefits or limited access thereto." Rather, supplementary benefits are granted because the beneficiaries can already meet a part of their subsistence needs, since, for example, they are engaged in part-time work or they earn income that is, however, not sufficient to meet all the requirements of their families. The claimants then receive the requisite part for securing a livelihood in addition to the income earned from their own work as UB II (called top-up). It is important to note that this group is therefore no longer unemployed and has access to the labour market, instead of possibly being without any work at all. The option of receiving top-up benefits in addition to own earned income is also an important option for successfully combating unemployment.

161. The Federal Government would like to reduce the number of people obliged to claim means-tested benefits despite being in work. A major instrument for this is the general statutory minimum wage of EUR 8.50 (gross/an hour) introduced in 2015. Provided it causes no adverse employment effects, this will enable a larger number of employed persons to earn a market income above the needs threshold for means-tested benefits. Assistance in the form of housing benefits, which subsidise housing costs, and of supplementary child benefits for low income earners have the same effect. Here, too, the reform of housing benefits as at 1 January 2016 and of supplementary child benefits as at 1 July 2016 will reduce the previous number of persons claiming means-tested benefits under BPJ and social assistance.

162. The 'comprehensive anti-poverty programme' cited in Recommendation No. 24 is therefore not in line with the situation in Germany, since a comprehensive institutional network of legal provisions and individual legal rights tailored to various personal circumstances and needs is already in place.

163. Furthermore, OECD estimates place Germany among those nations where inequality of market income is reduced most by means of taxes and social transfers, which have lowered the at-risk-of-poverty rate by 74%.

8. Benefits to guarantee an adequate standard of living

164. See information under No. 4.

(Recommendation No. 24)

Regarding Article 10
Right of families, mothers, children and young people to protection and assistance

1. Employment of children and young people

165. The employment of children and young people, and specifically the minimum age for employment, is defined in the Act on the Protection of Young People at Work (APYPW) of 12 April 1976.

166. Previously, the APYPW did not formally regulate whether it also applied to the exclusive economic zone of the Federal Republic of Germany in addition to mainland Germany. This was clarified by Article 3 (7) of the Act to Implement the 2006 Maritime Labour Convention of the International Labour Organization (ILO) of 20 April 2013. Since then, Section 1 (1) of the APYPW regulates that the said Act also applies in the exclusive economic zone pursuant to the specifications of the UN Convention on the Law of the Sea of 10 December 1982.6 The nature of the proposed legislation was clarificatory. No amendments to the existing degree of protection afforded to young people were involved.

167. In 2015, the Federal Government reported to the ILO on the implementation of Convention 138 (minimum age) and Convention 182 (prohibition of child labour). The reports pointed out that in Germany the Länder authorities responsible for health and safety at work implement the APYPW and are responsible for conducting inspections as set out in the legislation.

168. The infringements identified are generally not critical. When asked whether any cases of non-compliance with regulations concerning the worst forms of child labour were identified, all Länder stated that their authorities for health and safety at work had not discovered any infringements within the meaning of Article 3 (d) of Convention 182.

169. Simultaneously, Section 31 (2) of the APYPW also banned the distribution of tobacco products to minors over 16 by employers, which had previously been permitted. Thus, the general ban on the distribution of tobacco to minors (persons under 18) in public, which is regulated in Section 10 of the Protection of Minors Act, is now also implemented in the Act on the Protection of Young People at Work.

170. Otherwise, please refer to the previous reports, particularly the information provided in the Fourth German Report on National Implementation.

(Recommendation No. 23)

2. Violence against women

171. Domestic violence is already punishable under German criminal law. Irrespective of the nature of the relationship between the offender and the victim, the following criminal offences apply: offences against life (Sections 211 ff. of the German Criminal Code (GCC)), bodily harm (Sections 223 ff., GCC), forced marriage (Section 237, GCC), stalking (Section 238, GCC), unlawful imprisonment (Section 239, GCC), coercion (Section 240, GCC), intimidation (Section 241, GCC), robbery and blackmail (Sections 249-255, GCC) and verbal abuse (Section 185, GCC). The family relationship between offender and victim does not preclude criminal prosecution. Additionally, in Section 225 of the GCC law-makers have specifically made the ill-treatment of wards punishable, i.e. persons under 18 years of age or individuals who are defenseless due to illness or infirmity and are in the offender's care or custody, belong to his household or have been entrusted to him by the person authorized to provide care.

172. In cases of domestic violence the offender regularly assumes a position of trust in relation to the victim, or is a guardian. Both the breach of this particular trust and the psychological damage suffered by the victim as a result of the act can be considered when

sentencing within the context of Section 46 (2) of the GCC. Additionally, the penal code for sexual offences provides sufficient protection against sexual assault within the family.

173. The amendment of the GCC in 2015 (transposition of European regulations governing legislation on sex offences) further strengthened the protection of young persons against sexual assault in their immediate social and family environment. Under Section 174 (1) No. 3 of the GCC, it is a criminal offence to commit a sexual act on a person under eighteen who is his biological or adopted child or the child of his spouse, partner or a person with whom he has a consensual union or marriage-like relationship, or allow sexual acts to be committed by the ward on himself. Additionally, the Act to Improve the Protection of Sexual Self-determination, adopted by the German Bundestag and Bundesrat, criminalises additional acts that infringe on the sexual self-determination of the victim. For example, under Section 177 (1) of the GCC anyone committing sexual acts on a person, or allowing sexual acts to be committed by a person, against the discernible will of that person, or induces the person to commit or tolerate sexual acts on or by a third party is to be punishable with imprisonment for a period of six months to five years. The provisions laid down will also apply if the sexual activity occurs within the family. Therefore, there is no need for a separate criminal offence that solely addresses domestic violence for this behaviour to be adequately penalised under criminal law.

2.1 Compilation and analysis of statistical data, representative surveys and other research

174. Data concerning violence against women are compiled by the "police crime statistics" in the Länder. Following a decision by the KMK in 2007, additional information concerning suspects, victims and victim/suspect relationships has been collected uniformly nationwide since 2011, enabling the disaggregated documentation of domestic violence offences committed by current/previous female and male partners.

175. This enables a national comparison of assertions concerning crimes against life (homicides), against sexual self-determination (rape, sexual coercion etc.), crimes of brutality (assault and battery etc.) and crimes against personal liberty (deprivation of liberty, stalking etc.):

- Current and/or previous partners (disaggregated by marriage, civil union and cohabitation, as well as other previous partners)
- Recorded according to the criterion of spatial and social proximity (in a shared household etc.)
- Recorded according to victim-specific factors regarding helplessness (caused by alcohol abuse, drug abuse or disability/illness/age) etc.

176. 2012 was the first year the data were available. According to these statistics, in 2012 13,858 women were victims of violent crime perpetrated by their partners (male and female), of which 5,112 were cases of violent crime by the spouse (male and female), 4,503 by non-marital partners and 4,184 by former (marital) partners (male and female). With regard to homicides, 333 women were victims of their partners, 176 of which were their spouses, 81 were their non-marital partners and 76 were their ex-(marital) partners. An analysis of the share of "victims of partners" in the total number of victims for individual crimes reveals that 20% of female victims of violent crime were victims of their partners. This percentage is 2.6% for men. A high percentage (40.8%) is recorded for the female victims of homicides, with the percentage of male victims standing at 5.7%. A similar picture is presented by crimes of rape and sexual coercion (women: 23.9%; men: 4.5%) and bodily harm and aggravated assault (women: 25.7%; men: 3.3%).

177. To further improve data collection and gain more knowledge about unreported cases, ways to establish a monitoring system for violence against women were presented in a study. With this exploratory study into the collection and production of data and indicators on inter-personal violence in couple relationships and sexual violence against women and men with a view to a long-term monitoring system at national level, a proposal is available for the first time ever for the development of a national and data-driven instrument. The aim of this instrument is to be able to present the scale, forms and consequences of violence against women and men and the impact of anti-violence policy among institutions,

organisations and affected parties in Germany at the Federal and Länder level on a regular, long-term basis. The monitoring system is intended as a necessary basis to put the policy of the Federal Government, Länder and support systems in the area of violence against women on an informed, systematic data- and knowledge-driven basis on the long term. It follows the Federal Government report on the situation of women's shelters, counselling centres and other support services for abused women and their children (August 2012) and the monitoring requirements of the Council of Europe Convention on preventing and combating violence against women and domestic violence.

178. Representative data on violence and discrimination experienced by women with disabilities are provided in the study entitled "The living conditions, burdens and pressures experienced by women with impairments and disabilities in Germany," which was published by the Federal Government in 2011. The study surveyed women aged 16-65 with different disabilities and living in households and institutions. The central results are as follows:

- At 58-75%, women with disabilities are almost twice as much at risk of experiencing physical violence as an adult compared with the average female population (35%)
- The women surveyed were roughly twice to three times more likely to be affected by sexual violence as an adult than the average female population (21-44% compared with 13%)
- Experiencing violence in childhood and adolescence is a key factor in health and psychological pressures later in life: 20-34% of the women surveyed indicated having experienced sexual assault by adults during their childhood and adolescence, roughly two to three times more often than the average female population (10%)
- 50-60% of the women surveyed suffered psychological violence and psychologically damaging actions at the hands of their parents during childhood and adolescence (compared with 36% of the average female population)

179. The particularly high level of violence experienced by deaf women and women in institutions prompted the Federal Government to commission secondary analyses. The aim is to obtain more detailed knowledge on the causes and risk factors, and to develop suitable prevention and intervention measures. Victim-specific information is gathered additionally to the data concerning the crimes or groups of crimes.

2.2 Annual reports of the nationwide "violence against women" support hotline

180. The support hotline is affiliated to the Federal Office for Family Affairs and Civic Activities, which publishes an annual status report on the use of the support hotline and on the services provided. The status report also serves as a basis to align the hotline services with the population's needs. The BMFSFJ will evaluate the effectiveness of the hotline service five years after its launch in 2013.

2.3 Full implementation of the Second NAP

181. Adopted in 2007, the "Federal Government Second Action Plan to Combat Violence against Women" addressed the areas where action was particularly needed following the full implementation of the First Action Plan: for example, measures to protect migrants against violence and measures for very early prevention were prioritised and strengthened. The Second Action Plan brought together over 130 measures of the Federal Government and has been implemented in full. A central measure of this Action Plan was the in 2013 set-up nationwide "violence against women" support hotline.

182. The Federal Government is currently preparing to ratify the Council of Europe's Istanbul Convention signed in 2011. The need to implement the legislation at federal level is currently being examined, and ratification is sought by the end of 2017. By acceding to the Convention, Germany is also accountable to the independent monitoring mechanism enshrined in the Convention.

Regarding Article 11
Right to an adequate standard of living

1. Discriminatory evictions

183. The General Equal Treatment Act (GETA) protects against discrimination in the area of housing rental. However, Section 19 of the Act contains three special regulations that concern, for example, the creation and maintenance of stable social structures regarding inhabitants and balanced settlement structures, as well as balanced economic, social and cultural conditions, situations where the renting parties or their relatives are closely related or a relationship of trust exists, and rules concerning the rental of more than 50 apartments. However, protection against discrimination is also provided for disadvantaged and marginalised individuals and groups within the context of these specifications.

(Recommendation No. 35)

2. Contribution to official development assistance (ODA)

184. The Federal Government has committed itself to the goal of providing 0.7% of gross national income (GNI) to official development assistance (ODA). The Federal Government strives to achieve this goal by increasing funds for development cooperation in the federal budget. As a result, official development contributions grew from €12.486 billion to €16.028 billion between 2014 and 2015. According to provisional figures released by the OECD in April 2016, the German ODA ratio in 2015 stood at 0.52% of GNI (after 0.42% of GNI in 2014 and 0.38% of GNI in 2013).

(Recommendation No. 9)

3. Impact of agricultural and trade policy on the right to food

185. Since July 2013, exports of agricultural products are no longer supported by export refunds in the EU, and therefore in Germany, as these have been gradually phased out. Following the reform of the Common Agricultural Policy in 2013, it would only have been possible to reintroduce the instrument of export refunds in the event of extraordinary market crises, and then specifically for products from the grain, rice, sugar, beef, milk and dairy, pork, eggs and poultry sectors.

186. The Federal Government pushed the EU to also seek the abolition of export refunds and the regulation of measures with a similar effect within the framework of the World Trade Organization (WTO). In the context of the overall results of the Doha Round, the EU conceded as early as the WTO negotiations in 2005 to completely phase out its export refunds on condition that the remaining suppliers on the global market also gave up their export subsidy programmes (including export credits and food aid for the systematic elimination of surpluses).

187. It was possible to achieve this objective at the Tenth WTO Conference of Ministers. This will not only abolish all export subsidies worldwide, but it will also regulate export credits and food aid and apply the same rules to state trading enterprises. The adopted measures will make a key contribution worldwide to a more rules-based, equal system of global agricultural trade and thereby also help improve food security in developing countries.

(Recommendation No. 10)

4. Foreign investments made by German businesses

188. The Federal Government investment guarantees only provide protection against political risks to projects whose impacts on the investment country, including impacts regarding human rights, do not raise any doubts. Before a guarantee is issued, each project is examined regarding the impact it will have in the investment country, particularly with regard to environmental, social and development policy including human rights. The depth

and breadth of this examination depends on the extent of the project's impacts. Compliance with national standards in the investment country is a minimum prerequisite for the granting of the guarantee. Projects with considerable impacts in terms of the environment or human rights undergo an in-depth review. Furthermore, projects with far-reaching implications for environmental, social or development policies are also required to comply with international standards such as the International Finance Corporation Performance Standards, as well as the sector-specific Environmental, Health and Safety Guidelines of the World Bank Group. This must be confirmed by an independent auditor. Depending on the environmental, social and human rights-related relevance of the projects, once a guarantee has been granted the recipient businesses must report annually to the Federal Government on the current investment situation, also with regard to human rights. The Federal Government can demand corrective action in the event of any complaints.

(Recommendation No. 11)

9. Development cooperation projects

189. To ensure that human rights standards are considered in bilateral cooperation with partner countries, in 2013 German development policy introduced both a guide for defining country strategies that respect human rights, and guidelines for assessing the human rights risks and impact within the framework of programme proposal development.

190. All development cooperation projects in the area of rural development follow international standards such as the "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests" and help secure the right to food.

191. With regard to the project to regulate land ownership rights in Cambodia, the aim was to build the national legal framework along international standards (since 2012, these have been the aforementioned Voluntary Guidelines on Land). In addition, the last phase of the project specifically focussed on the land rights of disadvantaged groups, such as unofficial urban settlers, indigenous peoples and land-poor and landless individuals.

192. Almost four million land titles have been allocated with the support of the project, giving a large percentage of the rural population legal certainty for the first time. Due to prolonged human rights abuses in the land sector, however, Germany decided to end bilateral cooperation in the field of land rights in mid-2016. This decision was based on an independent human rights report. German development policy will continue to support human rights dialogue and the improvement of the living conditions of formerly land-poor and landless persons.

(Recommendation No. 25)

6. Homelessness by year, sex and Länder

193. In Germany, homelessness is the jurisdiction of the municipalities rather than the Federal Government. This makes sense considering that the scale and the reasons for homelessness vary greatly from municipality to municipality. As there are no national official statistics on the scale of homelessness in Germany, the Federal Government relies on the estimates of the Federal Association for Assistance to Homeless Persons (BAG W), which are based on methodological assumptions of the 1994 study on "Securing accommodation for economically and socially disadvantaged households". As there have been major changes in the housing market, income distribution and the demographic landscape since then, the Federal Government will commission a feasibility study to look into alternative (particularly methodological) approaches to estimating the level of homelessness. In addition, the possibility of national data collection at Länder level is being investigated with the Länder.

194. For the time being, preventive measures under SGB III and SGB XII have priority for the Federal Government in tackling homelessness. In this context, a research project was commissioned to better determine the costs of accommodation and heating for individuals entitled to basic provision for job-seekers under SGB III and SGB XII. The results of this project will be presented at the start of 2017. In addition, for many years the Federal

Government has been supporting the work of BAG W, a working community of social organisations and private and public sector providers of social services and facilities for homeless persons and people at risk of becoming homeless. In this context, the "Alliance for Affordable Housing and Construction" established by the Federal Minister for Building in July 2014 and the resulting housing construction initiative also deserve a mention. The results of this initiative also improve the framework for homeless persons to access the housing market. Further to this, since January 2015 the Federal Government has also been supporting four pilot projects specifically geared at children and young people living on the streets. Among other objectives, the projects aim to learn more about this target group and their support needs. Research into this field involves both a quantitative survey of street youth and a survey of professionals working in this area. Initial figures are expected to be released in autumn 2016.

Recommendation No. 15 (a)

7. Information on specific issues

7.1 Homelessness of children

179. Since January 2015, the Federal Government has been supporting four pilot projects specifically geared at children and young people living on the streets through the innovation fund entitled "Independent Youth Policy of the Federal Child and Youth Plan". This also includes exchange with the bodies responsible for the project and with young people who live or used to live on the streets. The aim is to learn more about this target group and their support needs. The projects are evaluated by the German Youth Institute.

180. Complementing this, at the end of 2015 the German Youth Institute launched its own research project to determine the number of children and young people on the streets. Research into this field comprises both a quantitative survey of street youth and a survey of professionals working in the area. Initial figures are expected to be released in autumn 2016.

Regarding Article 12
Right to health

187. People in Germany can rely on a high-quality system of medical care. The statutory health insurance system in which the majority of people are insured guarantees comprehensive social protection in the event of illness. Insured parties receive all the necessary medical services irrespective of their financial means. The contributions are based on the financial circumstances of the party, with caps in place that prohibit individual additional payments exceeding 2 percent of annual gross subsistence income per calendar year, or 1 percent in the case of individuals with chronic diseases.

188. Wide-ranging reforms of the health care system ensure that an easily accessible, high-quality system of medical care will also be available in the future. The Federal Government's various legislative initiatives are listed in Annex 19, p. 51.

189. In the opinion of the Federal Government, the best way to deliver long-term improvements to the health of the population — particularly disadvantaged groups — is through prevention and health promotion measures. It is therefore prioritising the development of measures that take the participatory settings-based approach of the WHO.

190. The Act to Strengthen Health Promotion and Prevention entered into force on 25 July 2015. The Act creates the structural framework to support health promotion and prevention at all ages and in every domain of life as a joint task of the stakeholders concerned. The job of the health insurance funds is to promote the development and strengthening of structures that promote healthy living among the population by providing health promotion and prevention services. In this context, the health insurance funds are supported by the Federal Office for Health Education. One priority of the Prevention Act is to strengthen in-company health promotion and improve interlinkages with occupational safety and health. To this end SMEs, in particular, are supported in developing health

promotion measures, and businesses will draw more on the expertise of company doctors for in-company health promotion and prevention.

1. Stigmatisation and discrimination of people with HIV/AIDS, cf. point 57, Guidelines

201. In the past, the independent Federal Anti-Discrimination Agency has repeatedly called for the protection of chronically ill persons against discrimination to be incorporated into the GETA. This surfaces again in the recommendations for action issued by the scientific coordinator for the thematic year going by the motto "Self-determination and Participation. Always". The Federal Labour Court has since strengthened protection against dismissal for workers with AIDS and other chronic diseases. According to the new provisions, dismissal due to the disease, including during the probation period, is considered discriminatory and is therefore not permitted. The decision expresses a modern understanding of disability in case law concerning the GETA and is an important step towards better protection against discrimination for all individuals with chronic diseases.

(Recommendation No. 35 (b))

2. Information on specific issues

2.1 Health protection policy in connection with food containing genetically modified organisms

202. In the EU, genetically modified (GM) crops and products are banned unless authorisation is granted (EC Directive 2001/18/EC, EC Regulation No.1829/2003). Accordingly, GM crops and food are only permitted following a corresponding assessment. This seeks to ensure a high level of protection for human life and health, animal health and welfare and environment and consumer interests, whilst ensuring the effective functioning of the EU internal market. These requirements have been adopted in national legislation governing genetic engineering.

203. The protection of human health is of paramount importance in the use of genetic engineering and is therefore the primary goal of political action and a mandatory requirement for any use of genetic engineering. The German Genetic Engineering Act states: "The purpose of this Act is to protect (...) the life and health of human beings (...) from any harmful effects of genetic engineering procedures and products and to take precautions to prevent the emergence of such risks" (Section 1). For every release and placing on the market of GM organisms, the authorisation requires no harmful effects to be expected on the health of humans, animals and the environment. This is examined in each individual case according to latest scientific knowledge before authorisation is granted. As an additional safety measure, the authorisation is valid for a maximum period of 10 years. After this, approval can be renewed. Compliance with authorisation requirements is assessed again during this process. A monitoring plan must also be presented with each application to be able to identify unanticipated impacts on humans, animals and the environment. Once granted, authorisation can be withdrawn again for a GM organism that has been introduced on the market if any safety concerns are raised.

(Recommendation No. 35 (c))

3. Information on specific issues

3.1 Compulsory medical treatment of people with mental illness

204. Compulsory treatment is understood to be medical treatment against the natural will of the affected party who does not recognise the need for medical treatment or is unable to act on this realisation due to a mental illness or a mental or psychological impairment. It is a serious encroachment on the basic rights of the individual to the free development of their personality and the right to bodily integrity, and is therefore only permitted under strict conditions. For compulsory medical measures on the basis of guardianship law, these requirements are found in Section 1906 (3) and (3a) of the Civil Code. According to these provisions, a compulsory medical measure is only permitted if it is necessary to the well-being of the ward in order to avert a serious imminent threat to the health of the individual.

Furthermore, compulsory treatment must always be the last resort, and the consent of the guardian and/or the authorised representative to the compulsory medical measure requires court approval (Section 1906 (3a) sentence 1 of the Civil Code). In addition, procedural regulations also ensure a high level of protection for the party concerned (personal consultation, mandatory appointment of a case guardian, the expert should not be the attending physician). If the individual concerned poses a danger to himself or to a third party, the mental health laws of the Länder regulate the requirements for compulsory treatment. Finally, medical treatment without the consent or against the will of the affected party can also be justified in urgent cases or cases of emergency if the conditions warrant an emergency (Section 34 of the GCC).

205. For information on the new regulations in the individual Länder, see Annex 20, p. 54.

(Recommendation No. 35 (d))

4. Information on specific issues

4.1 Drug use and prevention projects for children and young people

206. Representative data on the use of illegal drugs in Germany is primarily derived from two regular surveys: the drug affinity studies conducted by the Federal Office for Health Education (FOHE) (aged 12-25) and the epidemiological survey on addiction by the Institute for Therapy Research (aged 18-64). According to these data, 10.2% of young people (aged 12-17) have consumed illegal drugs at least once in their lives (situation in 2015). The consumption of cannabis accounts for the majority of illegal drug consumption. The consumption of other illegal drugs, such as cocaine or heroin, is comparatively rare. According to the statistics of the FOHE, in 2015 11.5% of males aged 12-17 admitted to having consumed illegal drugs at least once in their lives. At 8.8%, the lifetime prevalence of use among females in this age group was significantly lower.

207. Most of those consuming drugs only do so on a one-off or occasional basis. Only 1.3% of the young people surveyed indicated that they consumed illegal drugs regularly. With regard to the regular consumption of illegal drugs, cannabis is generally also the most common drug. One-time or regular consumption of other illegal drugs is significantly less frequent in all age groups. In the case of all illegal drugs, consumption only peaks in young adulthood.

208. Surveyed since 1973, the lifetime prevalence of cannabis consumption among 12-17 year-olds reaches its peak at around 15% in 2004. It declines significantly in the following years to stand at only 6.7% in 2011. After this, the percentage of young people to have consumed cannabis once in their lives increases once more. The lifetime prevalence in this age group is 8.8% in 2015. The consumption of all other illegal drugs apart from cannabis has been on a continuous downward trend since 2004, with lifetime prevalence among young people dropping from 2.6% in 2004 to 1.4% in 2015. Considering that preventive measures in Germany are strongly geared towards school pupils, this development is regarded as a positive impact of preventive measures.

209. Drug prevention in Germany is the remit of the Federal Government, the Länder, municipalities and self-governing bodies such as the statutory health insurance system. Particular efforts towards prevention and therapy in Germany therefore focus on young people and young adults. Any problematic consumption patterns that are relevant in morbidity and mortality rates take shape in these age groups. In this context, boys and young men must be seen as more at risk. They tend to consume illegal drugs not only more frequently than their female counterparts but also on a more regular basis.

210. The prevalence of alcohol and nicotine consumption among children and young people in Germany and the impact of prevention projects are illustrated in Annex 21, p. 56, which also contains an updated overview of drug use and addiction prevention projects aimed at children and young people.

(Recommendations Nos. 15 (c), ...)

5. Information on specific issues

5.1 Frequency of suicide and impact of suicide prevention measures

211. At the start of the 1980s, the number of completed suicides stood at almost 19,000 per year. The number has dropped to around 10,000 per year since 2005. 10,209 deaths from suicide were reported in 2014. The prevention of suicide is a cross-cutting issue that is the responsibility of society as a whole and touches on multiple policy areas, involving a diverse range of governmental and non-governmental stakeholders. The National Suicide Prevention Programme for Germany is an important framework initiative for suicide prevention. With roughly 90 member associations, the programme brings together knowledge and resources in suicide prevention. In addition, the 75 or more regional alliances against depression also play a significant role. Consolidated under the umbrella of the "German Alliance against Depression" the alliances interconnect healthcare facilities, advice centres and self-help activities in a multi-level approach and provide people in their local area with the help and counselling they need.

212. Since suicidal tendencies are generally associated with treatable mental illnesses, suicide prevention is particularly supported by all measures aimed at the continued development of prevention, treatment and rehabilitation of people with mental illnesses. Mentally ill persons in Germany can avail of a nationwide therapeutic and rehabilitative system offering a very broad range of support and services at in-patient, day care and out-patient levels, which are primarily funded by the statutory social security systems. Patient access to the services available also depends substantially on a preventative social climate and an approach to dealing with mental illnesses without prejudice. Accordingly the education and de-stigmatisation measures promoted by the Federal Government also always address the topics of suicidal tendencies and suicide prevention.

(Recommendation No. 27)

6. Situation in nursing homes — shortage of skilled workers

213. During the reporting period, the Federal Government has taken several steps to develop the legal framework in order to ensure and further enhance the quality of care services to be provided by in-patient and out-patient nursing homes, to strengthen knowledge of quality and internal quality management, and to render the results more transparent for all parties involved.

214. All nursing homes and out-patient care services are audited at regular intervals of maximum one year by the Medical Service of the Health Insurance Sector, the Audit Service of the Association of Private Health Insurance Companies or by an expert appointed by one of the Länder associations of long-term care funds, and by the nursing home supervisory authority. In addition, repeat inspections or special audits with cause (e.g. due to a complaint etc.) can also be conducted at any time. In principle, all inspections in in-patient nursing homes should be performed unannounced. Quality audits in out-patient care facilities must be announced one day in advance (special audits with cause are also unannounced here).

215. The agreements on transparency in nursing care introduced with the Long-term Care Reform Act in 2008 and the criteria agreed in the Act, which can be compared nationwide, constituted a first step to raise the visibility of the quality of nursing care. The quality of nursing care is assessed using a grading system. However, there is broad consensus that the current grading system under the nursing care transparency agreements does not provide a sufficiently nuanced assessment of the quality of nursing care and needs to be refined.

216. Based on the structured collection of data, the aim of the new procedure is to enable quality reporting and an external quality assessment focussed on the quality of results within the framework of internal quality management. Because of the Act to Restrict Long-term Care of 2013, the system of self-governance in nursing care was mandated by law to implement the new procedure focusing on the quality of results.

217. The efficiency of measures to reform the system of long-term care insurance in order to improve quality becomes clear over time in the regular reports issued by the Medical Service of the Central Federal Association of Health Insurance Funds (MDS) on quality in out-patient and in-patient nursing care: the Fourth MDS Report on Quality in Care was released at the start of 2015. According to the report, the MDS identifies positive developments in the quality of care overall and sees some significant improvements in both the out-patient and in-patient sector. In the field of in-patient care, for example, it identifies improvements in areas including "the handling of medication", "avoidance of bedsores", "diet and nutrition support", "management of pain" and "handling of measures that restrict an individual's freedom". For example, systematic pain assessment has been carried out on 80.3% of the nursing home residents concerned — a considerable improvement on the previous report from 2012 (54.6%). Another positive development was the significant drop in measures to restrict residents' freedom, declining from 20% to 12.5%.

218. In its report, the MDS also highlights that the regular external quality audits and guidance sessions have significantly supported and advanced the continued improvement of quality in nursing homes. It identifies room for improvement in the nursing care transparency reports, which publish the results of audits and inspections conducted on nursing homes, and serve as a source of information for consumers. This has been taken into account by the Federal Government with the regulations in the Second Act to Strengthen Long-term Care.

219. The in-depth and varied measures for the continued development of quality in nursing care are advanced by the 2015 and 2016 Acts to Strengthen Long-term Care. Key components of the Second Act to Strengthen Long-term Care are firstly the obligation on the self-governing partners to develop and introduce a new scientifically-based method to measure and present quality, with significant regard to the quality of the results. Secondly, the decision-making structures are set to undergo major changes. Consequently, the plan is to introduce a radically new approach which will replace the existing nursing care transparency agreements for the in-patient sector in 2018 and for out-patient sector in 2019.

6.1 Framework conditions for nursing professionals

220. Below are some examples of the Federal Government's perspectives and measures to improve the framework conditions for nursing professionals.

221. A simpler system of nursing care documentation (known as the structural model) was developed and trialled as part of the project "Practical application of the structural model — boosting the efficiency of care-related documentation in in-patient and out-patient long-term care" sponsored by the Federal Ministry of Health. The results make a key contribution to streamlining nursing care documentation on the long term and to paring it down to what is necessary from a professional and legal perspective. Since the end of 2014, the central undertaking to reduce bureaucracy in nursing care documentation has been advanced by all parties concerned, in close collaboration with, and with the extensive support of, the institutional organisations. Field reports demonstrate that applying the "structural model" to documentation can save a significant amount of time, which can then be invested in the residents. The Federal Government has created a clear framework for the payment of good wages based on collective agreements: for one, a special minimum wage which is higher than the general minimum wage has applied for geriatric nursing since 1 August 2010. The minimum wage for nursing care was increased on 1 January of both 2015 and 2016 and will be increased again on 1 January 2017 (starting from 1 January 2017, the hourly wage will be EUR 10.20 (west) and EUR 9.50 (east)). However, it is important to point out that geriatric nursing professionals regularly receive far higher salaries than the minimum wage. In addition, in the First Act to Strengthen Long-term Care, law-makers made it clear that the payment of collectively agreed remuneration (and remuneration based on the regulations of ecclesiastical labour law) may not be rejected as uneconomical in negotiations concerning the compensation of nursing homes. In addition, the nursing homes must also furnish proof that they actually pay collectively agreed wages if they claim to do so in agreements with the organisations bearing the costs.

222. The number of geriatric nursing professionals in out-patient care services and nursing homes increased by 108% between 1999 and 2013 to roughly 227,000. The number

of total employees working in the field of geriatric care grew by over 60% in the same period to around 1,005,000 (nursing care statistics, 2013). In tandem with the Länder and associations, the Federal Government launched the Geriatric Care Training and Skills Development Initiative at the end of 2012. Running for a period of 3 years, this first training pact in geriatric care aimed to pool the resources of all those with responsibility in the geriatric care sector in a joint initiative and agree on specific action to strengthen vocational initial, advanced and continuing training in this field, and make geriatric nursing a more attractive profession and a more appealing employment sector. A total of around 240 measures in ten fields of action were agreed. While some of these were limited to the duration of the initiative many were of a permanent nature. The initiative has helped significantly boost numbers enrolling in geriatric nursing training in recent years, with a 73.5% increase in the numbers of students in the first training year (2013/2014) compared with numbers enrolled for training in the year 2005/2006. This meant that in the first year of training in 2013/2014, there were more trainees in the field of geriatric care than in any other profession in the social and health services sector.

223. Demographic change and the social developments this entails change the requirements placed on nursing professionals and care structures. The Federal Government is committed to establishing nursing training that is geared to the future and to securing a skilled labour base in all care sectors to guarantee care standards and meet the need for good-quality nursing care in all age groups and across all care structures also in the future. The fundamental reform of nursing training is currently being prepared to this end. The vocational training programmes for geriatric care, nursing and health care, and nursing and paediatric care, which have been separately regulated by age group up to now, will be merged under a Nursing Professions Act into a new, standardised general nursing training programme with a professional qualification, and individual specialisation specified on the qualification certificate. The new training programme prepares candidates to work in all areas of nursing, makes it easier to switch between the individual nursing sectors and creates additional employment and promotion opportunities. This seeks to make the new training programme more appealing and encourage more professionals to enter the field. Complementing the vocational training, there are also plans to introduce a nursing training programme at third level which will help secure and develop the quality of nursing and attract other new target groups to the nursing profession. The new financing system introduced as part of the reform aims at a fair distribution of the financial burden among institutions that train and do not train and thereby avoid placing organisations that offer training at a competitive disadvantage. Training will be free for all nursing students and they will also receive a training allowance, which is regulated by law. The bill was adopted by the Federal Government on 13 January 2016. The law is currently in the legislative process.

7. Situation with regard to informal care

224. In addition to professional nursing care provided by in-patient and out-patient nursing facilities, care is also provided by family members. This is known as informal care. Different quality assurance instruments apply in this field.

225. Germany does not have a nationwide chain of reporting in place if someone suspects that an elderly individual in need of care is being abused or neglected in their home environment.

226. The law states that all persons exclusively in receipt of benefits in cash are required to regularly receive care counsellor visits in the home environment, as defined in Section 37 (3) of SCBXI. These visits occur every six months for care level I and II, and every quarter for care level III. Individuals entitled to benefits for care level 0 can avail of the service on a voluntary basis.

227. These visits "serve to safeguard the quality of domestic care and provide regular assistance and practical professional support to the care-giver in the home environment" (cf. Section 37 (3) SCBXI). The aim is to provide optimum support for the domestic care setting, thereby stabilising it on a long term basis. At the same time, the repeated home visits are designed to prevent any imbalances in the provision of domestic care and enable intervention if necessary. If the individual in need of care refuses the counselling visits, the

long-term care fund has the right — with due regard to Section 4 SCBXI — to reduce the cash benefit, or withdraw it completely if the visits are repeatedly refused.

228. Up to now, the counselling visits have primarily been conducted by workers at out-patient nursing services. The length of the visits can vary greatly, as can the counselling content of the session, as this is not yet specifically defined by the legal guidelines. In practice, they range from an in-depth discussion on care in line with the needs of the patient to meetings to acquire new customers to strict check-ups "with considerable potential for conflict".

229. This situation could be remedied by standardising the care counselling visits. So far, however, "the funding organisations and the service providers have not been able to reach consensus on the recommendations concerning quality assurance in counselling visits pursuant to Section 37 (5) SCBXI".9 Standardisation has yet to occur.

230. Recommendations concerning quality assurance in counselling visits must be agreed by the self-governing bodies by 1 January 2018.

(Recommendation No. 28)

8. Risk of malnutrition in schools

231. While malnutrition is not a widespread problem in Germany, poor diet — i.e. unbalanced nutrition primarily characterised by excessive consumption of unhealthy foods — and the consequences this has is an issue. Schools only have a limited impact on the dietary habits of families. Children in child daycare facilities and all-day schools receive a warm lunch. Assistance is available for parents on a low income. The number of pupils attending all-day schools has increased considerably in recent years.

232. Primary schools have also set up breakfast clubs where pupils eat breakfast together to counteract any failure on the part of the parents to provide their children with a breakfast.

233. The resolution of the KMK on "Consumer education in schools" (dated 12 September 2013) list the following lesson contents under the topics and fields of action for consumer education:

- Healthy lifestyle
- Food chains from cultivation to consumption
- Quality of food and food labelling
- Appreciation of food/avoidance of food waste
- The priority here is to not only discuss these issues in the classroom but to also incorporate these principles into school life as a whole, also with the involvement of non-school partners and parents

234. See Annex 22, p. 60 for information on a host of initiatives and teaching packs provided by the Federal Government and the Länder.

Regarding Article 13
Right to education

(Recommendation No. 29)

1. School drop-outs among socially disadvantaged pupils

235. The Federal Government and the Länder launched the "Advancement through Education" skills development initiative for Germany at the education summit on 22 October 2008. Guided by the principle that education is the key to personal chances in life and equal opportunities in a knowledge-based society, "Advancement through Education" is understood as a strategy "so that a person's background does not dictate his or her future".

236. One of the goals declared by the Federal Government and the Länder in the context of this initiative was to reduce the number of school drop-outs without a qualification from 8% to 4% on the national average. According to the latest implementation report dated November 2015, this percentage had dropped to 5.7% in 2013. Therefore, while the goal has not yet quite been achieved it is within reach over the medium term.

237. A number of measures, which are detailed in Annex 23, p. 61, have made a key contribution to improving these statistics.

238. The "Truancy — Time for a Second Chance" programme, which the Federal Government supported from late 2008 to mid-2014 with money from the ESF, managed to successfully (re-)integrate over 10,000 truant youth (approx. 68% of participants) into school, career preparation programmes, training or work. Owing to the positive results of the programme evaluation, the Federal Government decided that the new local youth empowerment pilot scheme — known as SUPPORTING YOUNG PEOPLE in their neighbourhood — should also enable projects for truant teenagers at junior secondary and vocational schools that aim to support the individuals in earning a school-leaving certificate from a special needs school or a lower secondary school. The programme, which is sponsored through the ESF and the Federal Child and Youth Plan, will initially be implemented by 178 pilot municipalities in the first phase of funding from 2015 to 2018. It supports the development of youth welfare counselling, advice and mentoring services for individually disadvantaged and/or socially disadvantaged young people who are making the transition from school to work and are in particular need of assistance. This is based on Section 13 of SCBVIII (youth social work). The programme is primarily implemented in districts that fall within the scope of the "Socially Integrative City" urban development assistance programme and comparable areas with particular development needs.

(Recommendation No. 30)

2. Abolition of tuition fees

239. According to the division of powers as set down in the German Constitution, the individual Länder are responsible for deciding on whether to charge tuition fees and on the amount charged. Since the ruling of the FCC of 26 January 2005, the Länder have been free to introduce general tuition fees. After a number of Länder then introduced tuition fees, general tuition fees were abolished again in all the Länder. However, tuition fees for long-term studies and administration, enrolment and registration fees must continue to be paid.

240. The FCC's call for socially responsible implementation is addressed by exemptions from tuition fees (e.g. for students with children, people with disabilities, cases of hardship etc.) and by the provision of loans which are to be repaid on completion of studies. These loans are open to foreign students with a German school education and EU citizens with a non-German school education. The loan must be repaid once the individual's annual income exceeds a minimum threshold.

(Recommendation No. 31)

3. Human rights education in the school curriculum

3.1 Human rights education in schools

241. All Länder in Germany regard education that teaches children respect for human dignity as a vital task and a fundamental objective of schools. The issue is firmly anchored in the syllabus for the relevant subjects in all school types and at all school levels and is the focus of many extracurricular projects and initiatives.

242. Human rights education in school aims to develop respect and tolerance for other cultures and a sense of fundamental responsibility towards society. On this basis, schools provide the environment for the free development of each pupil's individual personality and try as best they can to combat inequality of opportunity and counter disadvantages.

243. To mark the 60th anniversary of the Universal Declaration of Human Rights, on 10 December 2008 the KMK together with the Association of German Development NGOs once again underlined the importance of human rights education in German schools.

244. In addition to the recommendation for the promotion of human rights education from 2000, the KMK has also adopted several other resolutions on this topic. These act as the basis for corresponding ordinances in the individual Länder. Please refer to Annex 24, p. 62 for a list of the resolutions.

3.2 Human rights education at third level

245. The issue of human rights education is often broached in research and teaching. The actual human rights themselves (and what they entail) are primarily studied in the areas of law, social science and humanities (particularly political science and historical studies), but also in philosophy and theology, in health sciences and in educational science.

246. Human rights issues are also dealt with in other study programmes where the faculties consider this a necessary part of the education program to learn the skills needed. This concerns the rights of the individual just as much as the formal principles of community but above all it also concerns the importance of international interaction from an economic, political and cultural perspective. In keeping with the framework defined for the Bologna process, this creates the foundation for the broad-based development of personal skills which enable students to stand up for the observance of human rights and to advocate for the rights of others.

247. Accreditation, which has been introduced as a compulsory instrument of external quality assurance for bachelor and master study programmes, refers both to subject-specific aspects and to interdisciplinary areas. Above all, this includes empowering individuals towards social engagement and self-development, thereby making them mandatory components of third-level education.

(Recommendation No. 34)

4. Early education decisions and their impact on a pupil's ability to get a university education

248. Pupils are not assigned to a specific type of school. In most of the Länder, the wishes of the parents dictate the choice of secondary school the pupil will attend. In those Länder in which attendance at a certain type of school is tied to certain scholastic achievement requirements, parents are able to enter an appeal. In the general education school system, various measures are in place in the Länder that enable greater opportunities to transfer between the educational programmes (e.g. introduction of what is known as the "orientation level" where the specific choice of school remains open until the end of the sixth grade). By providing targeted, individual support, general education schools make significant efforts to help all pupils achieve their personal best school-leaving qualification, and in doing so reduce the number of pupils without a school-leaving qualification. In addition to upper secondary school (Gymnasium) which prepares pupils for university, pupils can also earn the right to attend upper secondary level (gymnasiale Oberstufe) at all non-Gymnasium types of secondary schools in the general education school system with the intermediate school-leaving qualification (mittlerer Schulabschluss) if their grades are good. Once they leave general education schools, increasing numbers of young people earn higher school-leaving qualifications at vocational schools.

249. Vocational schools therefore make a key contribution to increased educational equity and equal opportunities. In addition, there has been a tendency in several Länder in recent years to merge what were formerly lower-secondary (Hauptschule) and intermediate-secondary schools (Realschule), as well as integrated comprehensive schools (Gesamtschule) to some extent.

250. An overview of current school completion rates is provided in Annex 25, p. 63.

Regarding Article 14
Compulsory primary education

251. No changes since the previous report. Please refer to the information provided in the Fifth State Report, page 96 ff (German version).

Regarding Article 15
Right to participate in cultural life and enjoy the benefits of scientific progress, and the right of authors to benefit from the protection of their interests

252. For information on cultural education and the remit and role of cultural policy, see Annex 26, p. 64.

(Recommendation No. 32)

1. Data on the ethnic and religious make-up of the population

253. Official statistics contain some information on persons with a migrant background — such as their nationality, for example. On this basis, only limited conclusions can be drawn regarding the size of ethnic and religious groups.

254. The Federal Government is aware that ethnic and religious groups are not captured individually in official statistics and certain conclusions can only be drawn to an extent from information about persons with a migrant background or their nationality. The reason for this is that a large percentage of population and social statistics is informed by administrative records which do not contain any information on affiliation to ethnic or religious groups. Official statistics do not ask for specifics on such affiliation, not least on account of Germany's history. An obligation to disclose such information is precluded from the outset. Experience to date shows that reliable information on ethnic and religious minorities cannot be obtained from the sample surveys of official statistics on the basis of information provided voluntarily.

2. Copyright

255. No changes since the previous report. Please refer to the information in the Fifth State Report, page 110 (German version).

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Committee on Economic, Social and Cultural Rights

List of issues in relation to the sixth periodic report of Germany*

I. General information

1. Please indicate any steps taken to strengthen the monitoring and protection functions of the German Institute for Human Rights as well as its independence, including through reviewing the composition of its board of trustees. Please also clarify whether the Institute has access to all official documents and places, as well as the power to compel testimony from any authority in carrying out its mandate. Please further indicate the efforts made by the State party to increase the financial and human resources of the Institute and provide information on the annual budget, including sources of funding, and the number of staff members of the Institute during the reporting period.

2. Please provide detailed information on the measures taken to implement the action plan on business and human rights adopted in 2016, in particular, those that ensure that business actors domiciled within the territory of the State party exercise their human rights due diligence throughout their operations in Germany or abroad. Please also clarify how effectively the German court system has been in providing remedies to the victims of human rights abuses involving German companies operating abroad and provide examples in that regard.

3. Please indicate how many investment projects granted investment guarantees have gone through an in-depth review in relation to their impact on the human rights situation in the investment country (see the report of the State party (E/C.12/DEU/6), para. 188) and provide information thereon, including the countries of investment and the human rights of concern, and the result of the reviews. Please also provide information on the human rights complaints brought to the State party relating to projects and the actions taken in response to complaints.

4. In the context of the threat posed by climate change to the worldwide enjoyment of economic, social and cultural rights, please provide information on the national emission reduction targets adopted by Germany under the Paris Agreement on Climate Change, its proposed contributions to the Green Climate Fund and the progress achieved towards compliance with those international obligations.

* Adopted by the pre-sessional working group at its sixty-first session (9-13 October 2017).

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II. Issues relating to general provisions of the Covenant (arts. 1-5)

Maximum available resources (art. 2 (1))

4. Please provide information on the evolution over the past 10 years of:

(a) The levels of inequality, defined as the ratio between total income accruing to the richest decile of the population and total income of the 40 per cent poorest in the population;

(b) The proportion of public revenues that is financed through taxes;

(c) The rates of taxes levied on corporate profits, on personal incomes and value added tax (VAT) (exclusive of VAT on luxury items, tobacco-alcohol or sugary drinks snacks and gasoline), respectively and the percentage of total revenues accounted for by the personal income taxes collected from the richest decile of the population;

(d) Public expenses as a percentage of gross domestic product and, within total public expenses, the proportion of the public budget that is dedicated to social priorities (education, food, health, water and sanitation and housing);

(e) Inflation-adjusted absolute levels of spending on those social priorities.

Non-discrimination (art. 2 (2))

6. Please provide information on the measures taken to strengthen the Federal Anti-Discrimination Agency, including its mandate and financial and human resources. Please indicate whether the Agency has the power to receive and investigate complaints relating to discrimination and to provide legal assistance to victims of discrimination, and whether it is consulted in a systematic manner on all legislation and policies relating to persons concerned under the General Act on equal treatment.

7. Please clarify whether national anti-discrimination legislation is effective in preventing churches from discriminating against adherents of other faiths in the matter of employment in non-ecclesiastical appointments in church-run institutions such as schools, hospitals and nursing homes. Please also clarify whether the legislation prohibits churches from dismissing non-ecclesiastical employees who contract same-sex marriages.

8. Please provide statistical data on the number of surgeries performed on intersex infants and children. Please indicate the measures taken to address the challenges, physical and mental, faced by intersex infants and children. Please indicate the impact of the decision to allow a third gender option on birth certificates in 2013 on the situation of intersex infants and children. Please also provide information on the measures taken to combat and prevent discrimination and violence based on sexual orientation and gender identity and indicate whether the State party has the intention to make explicit reference to homophobia in its hate crime legislation.

Equal rights of men and women (art. 3)

9. Please provide information on the implementation of the Act on the equal participation of women and men in executive positions in the private sector and public service (2015) and the amendments to the Act on appointments to federal bodies, and include updated statistical data on the representation of women in decision-making positions in both the public and private sectors. Please also clarify how effective the Federal Act on gender equality (2015) has been in redistributing care responsibilities within the family.

III. Issues relating to the specific provisions of the Covenant (arts. 6-15)

Right to work (art. 6)

10. Please indicate the measures taken: (a) to ensure that all employers with an average of at least 20 employees a year employ at least five per cent of persons with severe disabilities among their workforce, as required by law, particularly in the private sector; (b) to make the labour market more inclusive for persons with disabilities, in particular with regard to inclusive vocational training and workplace accessibility; and (c) to improve the working conditions of workers with disabilities in sheltered workshops and to increase the transition rate from sheltered workshop activities to the general labour market. Please also provide statistical data, disaggregated by sex, type of disability and sector, as applicable, on the number of persons with severe disabilities employed under the 5 per cent quota and the percentage of persons with disabilities who have found employment.

11. Please clarify how the labour and social protection for temporary (or leased) workers has been strengthened through the adoption of the amendments to the law on temporary work of 2017 and, in particular, how the principle of equal pay for work of equal value is applied and fully implemented to temporary workers under those amendments. Please provide information on the consequences of the amendments on migrant workers, particularly those from non-European Union or non-European Economic Area countries. Please also provide information on the measures taken or envisaged to monitor and strengthen the enforcement of this new law. Please also provide statistical data, disaggregated by sex, on the number of temporary workers in the State party and the average duration of their employment.

Right to just and favourable conditions of work (art. 7)

12. Please indicate whether the current minimum wage of the State party ensures a decent living for workers and their family members and provide information on the mechanisms used to index the minimum wage. Please provide information on the compliance rates for legislation on the minimum wage and on cases of non-compliance.

13. Please provide information on the measures taken to provide labour and social protections to domestic workers, including the large number of migrant caregivers. Please clarify how their conditions of work are monitored and regulated by labour inspectorates and other relevant authorities and whether they have access to mechanisms to make a complaint in relation to their working conditions. Please also provide information on any bilateral agreements that the State party has entered into with the countries of origin of such workers.

14. Please provide information on the measures taken to prevent occupational accidents and diseases and to strengthen labour inspections in the agricultural and construction sectors. Please also provide information on the measures taken to address the high incidence of exposure to asbestos and of asbestos-related diseases and prevent the further exposure of workers to asbestos.

15. Please provide information on the measures taken to ensure, in law and in practice, that prisoners are assigned to work in privately run workshops with their free, formal and informed consent. Please also provide information, including statistical data disaggregated by sex, on the number of prisoners working in entrepreneur workshops inside prison premises, on the level of remuneration granted to those prisoners and on their conditions of employment.

Trade union rights (art. 8)

16. Please clarify why the recognition of the rights to collective bargaining and to strike action is not granted to those public servants who are not engaged in the administration of the State. Please provide updated information on the cases brought before the Constitutional Court by teachers with civil servant status on the strike ban under the civil service law (see E/C.12/4B3/6, para.129).

Right to social security (art. 9)

17. Please indicate the measures taken to implement the ruling of the Federal Constitutional Court of 23 July 2014 (1BvL10/12). Please clarify whether the State party has reviewed the methods and criteria applied to determine the level of benefits and monitor the adequacy criteria regularly and, if so, provide information on the result of the reviews and on the measures taken to act upon the results. Please further provide information on the steps taken or envisaged to increase the level of social security benefits to ensure a decent living to the beneficiaries and their families.

Protection of the family and children (art. 10)

18. Please clarify how the law of the State party stipulating a suspension of family reunification for two years until March 2018 complies with article 10 of the Covenant and whether the State party intends to renew the law. Please also indicate the measures taken by the State party to address the increased number of rejected applications for family reunification owing to the family's inability to secure the necessary subsistence and accommodation for the whole family. Please further indicate the efforts made by the State party to facilitate the family reunification of those persons in Greece waiting excessively long periods for their transfer to Germany.

Right to an adequate standard of living (art. 11)

19. Please provide information on the concrete measures taken to reduce poverty, particularly among part-time workers, workers in "mini jobs" and children. Please indicate the effect of the introduction of the general minimum wage and of the reform of housing benefits and the education package, as indicated in the report of the State party (E/C.12/DEU/6, para.161), on the decrease in the number of persons claiming means-tested benefits under the basic provision for jobseekers and social assistance, and provide relevant statistical data in that regard. Please indicate the take-up rates of child benefit and of the educational package, and whether measures are being considered to increase the take-up rates.

20. Please provide information on Germany's position regarding the assessment and monitoring of the impact of the European Union common agricultural policy on low-income food deficit countries prior to the upcoming negotiations concerning the reform of the agricultural policy.

21. Please provide information on the provision of social housing during the reporting period. Please indicate the number of people who are waiting to obtain social housing and the average waiting period. Please also indicate whether the State party intends to consolidate information on homelessness, including the scale and reasons for homelessness, and provide information on the outcome of the research projects mentioned in paragraph194 of the report of the State party. Please also provide information on the efforts to tackle homelessness and to ensure that homeless persons can access social benefits, in law and in practice.

Right to physical and mental health (art. 12)

22. Please provide information on the specific efforts made by the State party to ensure that the citizens of European Union member States who do not benefit from the European Convention on Social and Medical Assistance, asylum seekers and migrants without regular status have access to adequate and affordable health-care services. In particular, please indicate the measures taken or envisaged to ensure that migrants without regular status have access to health-care services without having their status reported to the immigration authorities in accordance with section 87 (2) of the Act on the residence, economic activity and integration of foreigners.

23. Please provide information on Germany's position regarding the inclusion of data exclusivity provisions in European Union preferential trade agreements with developing countries and the impact of such provisions in delaying access to inexpensive generic medicines in poorer countries, with adverse impact s on the right to health.

Right to education (arts. 13-14)

24. Please provide detailed information on the granting of exemption from tuition fees and the loans provided for students, including eligibility for exemption and the conditions of such loans, and include statistical data on the number of students whose tuition fees are waived and the number of students who are have taken out loans for their studies, disaggregated by sex, nationality and family income.

Cultural rights (art. 15)

25. Please provide information on the concrete measures taken to promote, including through the media, the culture and language of national minorities living in Germany and, in particular, to promote the use of minority languages in contacts with local administrative authorities. Please also provide information on the efforts made by the State party to promote the diverse cultures that have been brought in by migrant communities.